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REGISTER RULES OF GOVERNMENTAL AGENCIES



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February 23, 2001

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TABLE OF CONTENTS
February 23, 2001 Volume 25, Issue 8

PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Local Government Health Plan	
80 Ill. Adm. Code 2160	2941
HUMAN SERVICES, DEPARTMENT OF	
Refugee/Entrant/Repatriate Program	
89 Ill. Adm. Code 115	2960
NATURAL RESOURCES, DEPARTMENT OF	
Disabled Hunting Method Authorizations	
17 Ill. Adm. Code 760	2962
REVENUE, DEPARTMENT OF	
TeleFiling Of Illinois Individual Income Tax Returns	
86 Ill. Adm. Code 107	2967
Income Tax	
86 Ill. Adm. Code 100	2973

ADOPTED RULES

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF	
Industrial Training Program	
56 Ill. Adm. Code 2650	2987
International Tourism Program	
14 Ill. Adm. Code 555	3005
STATE POLICE, DEPARTMENT OF	
Testing Of Breath, Blood And Urine For Alcohol, Other Drugs, And Intoxicating Compounds	
20 Ill. Adm. Code 1286	3023

EMERGENCY RULES

HUMAN SERVICES, DEPARTMENT OF	
Refugee/Entrant/Repatriate Program	
89 Ill. Adm. Code 115	3046

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received	3057
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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
Issue 15	April 2	April 13	Issue 42	October 9*	October 19
Issue 16	April 9	April 20	Issue 43	October 15	October 26
Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Local Government Health Plan

2) Code Citation: 80 Ill. Adm. Code 2160

3) Section Numbers:

2160.130	<u>Proposed Action:</u>
2160.210	Amend
2160.220	Amend
2160.230	Amend
2160.240	Amend
2160.250	Amend
2160.260	Amend
2160.325	Renumber
2160.310	Amend
2160.320	Amend
2160.330	Amend
2160.410	Amend
2160.420	Amend
2160.510	Amend
2160.520	Amend
2160.610	Amend
2160.620	Amend
2160.710	Amend
2160.720	Amend

4) Statutory Authority: Implementing and authorized by Sections 10, 13 and 15 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/10, 375/13 and 375/15].

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments will update and revise this Part based on changes to state law and department policies.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate On units or local government, school districts or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

within 45 days of the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: These amendments were included on the January 1999 regulatory agenda. However, additional changes to the Group Insurance Act were effective July 1999 and 2000.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE INSURANCE

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2160

LOCAL GOVERNMENT HEALTH PLAN

SUBPART A: PURPOSE AND DEFINITIONS

Section
2160.110 Name of the Program
2160.120 Purpose
2160.130 Definitions

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section
2160.210 Determining Eligibility of Groups
2160.220 Enrollments and Terminations
2160.230 Rate Setting
2160.240 Premium Collection and Billing
2160.250 Other Administrative Responsibilities
2160.260~~25~~ Program Termination

SUBPART C: RESPONSIBILITIES OF LOCAL GOVERNMENT UNITS AND
QUALIFIED-REHABILITATION-FACILITIES

Section
2160.310 Enrollment Responsibilities
2160.320 Premium Collection
2160.325 Program Termination (Renumbered)
2160.330 Signing the Agreement

SUBPART D: RESPONSIBILITIES OF LOCAL GOVERNMENT
HEALTH PLAN REPRESENTATIVES

Section
2160.410 The Health Plan Representatives
2160.420 Appeals Process Responsibilities

SUBPART E: RESPONSIBILITIES-OF-THE ADVISORY BOARD

Section
2160.510 Appointment of Advisors
2160.520 Responsibilities of the Board

SUBPART F: FUNDING

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section
2160.610 Local Government Health Insurance Reserve Fund
2160.620 Premium Rate Structure

SUBPART G: HEALTH CARE COVERAGE

Section
2160.710 Local Government Health Plan
2160.720 Health Care Coverage

AUTHORITY: Implementing and authorized by Sections 10, 13 and 15 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/10, 13 and 15].

SOURCE: Adopted at 14 Ill. Reg. 14343, effective August 22, 1990; amended at 17 Ill. Reg. 11441, effective July 9, 1993; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: PURPOSE AND DEFINITIONS

Section 2160.130 Definitions

Whenever used in these rules, the following terms shall have the meanings set forth below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized.

"Act" means the State Employees Group Insurance Act of 1971, ~~as amended~~ (1111-Rev--Stat--19917-ch-1277-para-521--et--seq.) [5 ILCS 375].

"Administrative Service Organization" means any person, firm or corporation the Department has contracted with to administer the program.

"Annuitant" means any former Employee, as defined in this Section ~~herein~~, who has retired from a Unit ~~or~~ Facility and is receiving an annuity from an Illinois Public Pension System or another ~~from-a~~ pension plan as a result of services to the ~~of-such-a~~ Unit ~~or~~ Facility.

"Benefit Choice Period" means the annual election period, designated by the Department, during which Units may add or drop coverage for Annuitants, Dependents or Survivors; and Members may add or drop Dependents from coverage and select coverage from available plans offered.

"Compensation" means salary or wages paid by a Unit or Facility to an Employee for personal services currently performed.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Department" means the Illinois Department of Central Management Services.

"Dependent" means the term is used in the context of this Part, means any person participating in the Program as a non-Member.

"Director" means the Director of the Illinois Department of Central Management Services.

"Employee" means and includes an elected government official or a each person in the service of a Unit or Facility in the State of Illinois who receives Compensation through the regular payroll for work currently performed and receives benefits comparable to others in the same Unit, for work currently performed.

"Facility" means and includes a Qualified Rehabilitation Facility or a Qualified Domestic Violence Shelter or Service.

"Fiscal Year" means the State's fiscal year from July 1 through June 30.

"Fund" means the Local Government Health Insurance Reserve Fund.

"Group--Re-Enrollment--Period" means the annual election period designated by the Department, during which Units and Facilities may add or drop coverage for Annuitants and change the type of dependent coverage offered to their Employees, Survivors or Annuitants, and Members may select coverage from available plans offered.

"Health Plan Representative" means an individual from Employee of a Unit or Facility who serves in the capacity of a liaison through whom the Department shall conduct all business necessary to provide health benefits to that Unit or Facility.

"Member" means an Employee, Annuitant or Survivor.

"Plan" means the Local Government Health Plan.

"Pre-Existing Condition" means any disease, injury or condition, excluding including maternity, for which the individual was diagnosed, received treatment/services, or took prescribed drugs during the three (3) months immediately preceding the effective date of coverage under the Program.

"Program" means a self-insured health benefits program, as authorized by the State Employees Group Insurance Act of 1971, or health maintenance organization (HMO) plan offered by the State of Illinois to Units and Facilities. The coverage offered to Units and Facilities

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

is similar identical to that offered to employees of the State of Illinois under the Program.

"Qualified Domestic Violence Shelter or Service" or "Shelter" means any Illinois domestic violence shelter or service and administration offices funded by the Illinois Department of Public Aid that has been approved by the Director to participate in the Plan.

"Qualified Rehabilitation Facility" or "Facility" means any not-for-profit organization that is accredited by the Commission on Accreditation of Rehabilitation Facilities or certified by the Department of Mental Health and Developmental Disabilities to provide services to persons with disabilities and which receives funds from the State of Illinois for providing those services.

"Unit" means a "Qualified Unit of Local Government" as defined in the State Employees Group Insurance Act of 1971, or "Unit" means any county, municipality, township, school district, special district or any other unit designated as a unit of local government by law including any not-for-profit association with a membership that primarily includes townships and township officials that has duties that include provision of research service, dissemination of information and other acts for the purpose of improving township government, and that is funded wholly or partly in accordance with Section 13-19 of the Township Law of 1874, and the Illinois Association of Park Districts that has been approved by the Director for enrollment in the Plan.

"Survivor" means a person who is receiving an annuity from the Unit's retirement plan as a survivor of an a surviving dependent of a person who satisfies the definition of Employee or Annuitant.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section 2160.210 Determining Eligibility of Groups

a) A Unit must be approved by the Director for participation in the Program.

1) The Director shall grant eligibility for a Unit if the Unit meets the definition in the Act and agrees to the conditions specified in this Part.

2) The Department shall not approve a Unit for participation if the Unit has withdrawn from the Program program during the term of an agreement within the previous five Fiscal Years, except that a Unit may terminate effective at the end of the first Fiscal Year

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

without penalty if the second Fiscal Year premium rate is 20% greater than the first Fiscal Year.

- b) The Department shall grant eligibility to a Qualified Rehabilitation Facility if the facility:

- 1) meets the definition in the Act; and
 - 2) agrees to the conditions specified in this Part; and
 - 3) has a not-for-profit status and has filed an Annual Report of Charitable Organization with the Secretary of State; and
 - 4) is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide services to persons with disabilities or certified by the Department of Human Services; Mental-Health-and-Developmental-Disabilities; and
 - 5) receives funds from the Department of Human Services State-of- Illinois for providing services to persons with disabilities; and
 - 6) has not withdrawn from the program during the term of an agreement within the previous five Fiscal Years.
- c) The Department shall grant eligibility to a Qualified Domestic Violence Shelter or Service if the facility:
- 1) meets the definition in the Act;
 - 2) agrees to the conditions specified in this Part;
 - 3) is funded by the Illinois Department of Human Services Public Aid; and
 - 4) has not withdrawn from the Program during the term of an agreement within the previous five Fiscal Years five--fiscal--years; except as provided in subsection (a)(2).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.220 Enrollments and Terminations

The Department shall enroll and terminate Members and their Dependents after notification in the form and manner prescribed by the Department.

- a) The Department shall provide notification to the Unit or Facility that the enrollment or termination has been completed.
- b) The Department shall furnish the Units and Facilities with forms to submit to the Department for enrollment and termination of Members.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.230 Rate Setting

- a) The Department will be responsible for setting rates at least 60 days prior to the start of the Fiscal Year except in the event that State union negotiations prevent the rates from being finalized.
- b) The Department shall not change rates during a Fiscal Year. The

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

methodology for rate setting is described in Section 2160.620.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.240 Premium Collection and Billing

- a) The Department shall generate a billing statement for each Unit and Facility participating in the Program on or before the end of each month. This billing statement shall represent the total amount due from the Unit or Facility for the following month's coverage.
- b) Membership changes not previously-billed-and-paid received on or before the 20th twentieth of each the-billing month shall be reflected in the following month's billing statement.
- 1) Prior month changes shall also appear on the billing and be reflected in the total amount due.
 - 2) In cases of administrative errors on the part of the Unit or Facility, or when the Member does not provide information to the Unit, or Facility-concerning-the-dropping-of-a-Dependent-at-the-time--the-Dependent-no-longer-qualifies-as-a-Dependent-under-the-Plan; a retroactive premium adjustment refund shall be made. Retroactive premium adjustments refund shall be made contingent upon the Department recovering any health care expenses that may have been paid because the Program was not timely notified. on behalf-of-the-Dependent-who-no-longer-qualifies-for-coverage. Retroactive premium refund adjustments shall not exceed 3 three months.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.250 Other Administrative Responsibilities

- a) The Department shall offer an annual Benefits Choice Period for Group Re-Enrollment-to-allow Units and Facilities to:

- 1) add or drop coverage for Annuitants as a group; and
- 2) allow Members to add or drop change--the--type--of Dependent coverage; offered-to-their-Members;
- 3) allow Members to change health plans.

- b) The Department shall provide information to the Units and Facilities about the benefits and requirements of the Program program in the Local Government Health Plan Member Handbook and the annual Benefit Choice Options booklet.

- c) The Department shall prepare and distribute an administrative procedures manual with periodic updates for the Health Plan Representatives designated by the Units and Facilities.

- d) The Department will provide training seminars for Health Plan Representatives designated by the Units and Facilities.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) The Department shall establish an advisory board. The responsibilities of the board are described in Section 2160.520.
- f) The Department shall establish formal appeal procedures to be followed when the Member is dissatisfied with the benefit determination made by the Administrative Service Organizations Organization as described in Section 2160.420. Members--if-represented-by-a-certified-bargaining-agent--shall-be-advised-of-the-right-to-have-a-Union-Representative present-when-they-are-scheduled-for-an-advisory-board-appeal.
- g) The Department shall notify the designated Health Plan Representatives of the Administrative Service Organizations Organization being used and the address and forms needed to submit claims to the Administrative Service Organizations Organization.
- h) The Department shall audit records of participating Units and Facilities, such as payroll information, to verify enrollment and enforce eligibility rules under the Plan.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.260325 Program Termination

- a) Grounds for program termination by the Department include, but are not limited to:
- 1) any material breach of the Intergovernmental Cooperation Agreement;
 - 2) failure to pay the full monthly premium by the last day of the coverage month;
 - 3) non-compliance with enrollment responsibilities in accordance with Section 2160.310; or
 - 4) failure to meet the eligibility requirements of a Qualified Unit of---Local-Government--Qualified-Rehabilitation-Facility--or-Qualified-Domestic-Violence-Shelter-or-Service.
- b) The Department shall issue one notice of termination. Termination shall be effective 15 days after notice of termination.
- c) Once termination occurs, the Unit or-Facility shall not be permitted to enroll in the Program program for a period of 5 five years.
- d) Coverage terminates on the last day for which premium has been paid.

(Source: Section 2160.260 renumbered from Section 2160.325 and amended at 25 Ill. Reg. _____, effective _____)

SUBPART C: RESPONSIBILITIES OF LOCAL GOVERNMENT UNITS AND QUALIFIED-REHABILITATION-FACILITIES

Section 2160.310 Enrollment Responsibilities

- a) Any Unit or-Facility within the State of Illinois interested in the Program may apply to the Director to have its Employees provided group

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- health coverage under the this Act. Annuitants, Survivors and Dependents may also be offered coverage.
- b) To participate, Units and-Facilities must agree to enroll all Employees, except as provided in subsection (b)(5), who may select coverage under either the self-insured indemnity health plan or a managed care plan that has contracted with the State, with the costs paid by the Unit, at-least-85%-of-the-full-time-Employees-of-the-Unit or-Facility-as-Members, with-the-costs-paid-by-the-Unit, or-Facility its Members or some combination of both as determined by the Unit. or-Facility--with-the-costs-paid-by-Unit-or-facility--its-Employees--or-some-combination-of-the-two-as-determined-by-the-Unit-or-Facility.
- 1) Employees must be employed at least half of the normal work period as measured on a yearly basis, or meet the standard for participation in the Illinois Municipal Retirement Fund, except that elected government officials employed by the Units and-Facilities have the option to participate in the Plan, regardless of the number of hours worked.
- 2) Employees, other than elected government officials, must receive Compensation through the regular payroll process from the Unit or-Facility.
- 3) Units and-Facilities may permit Employees who work 50% to 90% of the Unit's or-Facility's normal work period, to individually enroll as Members under the plan.
- 4) Employees who work 90% or more of the Unit's or-Facility's normal work period must be enrolled as Members in the Plan, except as provided in subsection (b)(5).
- 5) A full-time Employee of a participating Unit who is covered under this or another group plan may elect to waive coverage, as long as an official from the Unit attests to this other coverage and at least 85% of the full-time Employees of the Unit are covered. A participating school district must have enrolled at least 85% of its full-time Employees who have not waived coverage under the district's group health plan by participating in a component of the district's cafeteria plan. A participating school district is not required to enroll a full-time Employee who has waived coverage under the district's health plan, provided that an appropriate official from the participating school district attests that the full-time Employee has waived coverage by participating in a component of the district's cafeteria plan. For the purposes of this subsection (b)(5), "participating school district" includes school districts and career, vocational and special education school districts.

- 5) Units shall-not-be-required-to-enroll-those-of-its-employees--who-are-covered--spouses--or--dependents--under-this-plan-or-another-group-policy-or-plan-providing-health-benefits-provided:
- i) an appropriate official from--the-Unit--or-Facility attests that--each-employee-not-enrolled-is-a-covered-spouse-or-dependent-under-this-plan-or--another--group

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

policy-or-plan-and

at least 85% of the Employees are enrolled and the Unit or Facility remits the entire cost of providing coverage to those employees.

- 6) Employees of a participating Unit or Facility who are not enrolled due to coverage under another group health policy or plan may enroll during the annual Benefit Choice Period or at a later date if the Employee experiences a qualifying change in status. This coverage is subject to possible health benefit limitations based on Pre-Existing Conditions. at a later date subject to submission of satisfactory evidence of insurability and provided that no benefits shall be payable for services incurred during the first 6 months of coverage to the extent the services are in connection with any Pre-Existing Condition. The Pre-Existing Condition time period may be reduced by the amount of creditable coverage Members or Dependents may have had with another insurance plan prior to enrollment, provided there was not a break in coverage of more than 63 days. A Certificate of Creditable Coverage from the prior plan must be provided to the employing Unit to reduce the Pre-Existing Condition time period.

- c) Units and Facilities may also elect to cover their Annuitants.

- 1) Units and Facilities that which elect to cover their Annuitants must shall allow Employees at the time of retiring the option to individually enroll in the program. The option shall only be offered once to Annuitants.

- 2) Individual Annuitants terminating from the Program shall not be allowed to participate in the program in the future.

- 3) At the any time of the initial enrollment only, Units and Facilities may elect to also cover current Annuitants as a group. During the annual Benefit Choice Period, Units may add or drop Annuitants as a group. If a Unit or Facility elects to cover Annuitants, then the Units and Facilities active Employees must be given the option to continue coverage upon retirement.

- d) Units may offer and Facilities shall either provide dependent coverage or offer such coverage on an optional basis. If a Unit or Facility offers dependent coverage on an optional basis, the Unit or Facility shall make available high option only or both high and low options for dependent coverage. High Option means the higher of two levels of dependent coverage available under the program. High Option requires the same deductible and co-payment levels as the low option but limits out-of-pocket expenses has unlimited contract year and lifetime benefit maximums. Low Option means one of two levels of dependent coverage available under the program. Low Option requires the same deductibles and co-payment levels as the High Option but does not provide comprehensive coverage for inpatient hospitalization. There is a limitation on benefits for room and board charges and no limits on out-of-pocket expenses with a \$250,000 contract year benefit maximum.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) Units and Facilities may enroll under the Program at the start of any month beginning July 1, 1990.

1) The Units and Facilities must give the Department at least 60 sixty days advance written notice before enrollment.

- 2) A Unit or Facility may enroll for part of the State's Fiscal Year. If a Unit or Facility has been enrolled in the program for a partial State Fiscal Year, the Unit or Facility must begin the second year on July 1 to coincide with the State's Fiscal Year that which is also the new plan rate year.

- f) Units and Facilities will inform Members of the following responsibilities. Plan Members must:

- 1) choose from coverages available;
2) choose dependent health care options;
3) be responsible for notifying the Health Plan Representative of coverage options chosen, and any changes that may affect eligibility or enrollment.

24) be responsible for reviewing the Local Government Health Plan Member Handbook describing coverages health care coverage, eligibility, termination and claims submission requirements.

- g) Units that and Facilities which enroll in the Program shall designate a person to be the Health Plan Representative. The responsibilities of the Health Plan Representative are described in Section 2160.410.

- h) If the Unit or Facility exempts Members' premiums from taxes, in compliance with Section 125 of the Internal Revenue Code (26 USC 8-8-6: 125), the Unit or Facility must comply with Internal Revenue Code requirements that which prohibit changes in the Member deduction during the Fiscal Year unless the Member has a change in family status.

- i) Units and Facilities do not limit their duty to bargain with representatives of any collective bargaining unit of their Employees through participation in the Program program.

- j) Compliance with the continuation of benefits requirements of the Federal Consolidated Omnibus Budget Reconciliation Act of 1987 (COBRA) is the responsibility of the Unit or Facility. All premiums must be collected and transmitted terminated by the Unit or Facility.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.320 Premium Collection and Payment

The Unit or Facility shall be responsible for the collection and transmission of Member and dependent premiums.

- a) For the first month's premium only, the Department must receive the premium by the first day of coverage. This premium is non-refundable if the Unit or Facility does not enroll.

- b) For the subsequent months, the total amount due as specified in the billing statement, which includes the combined amount due from

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Members, Dependents and the Unit, or Facility shall be paid in full by the 20th last calendar day of the month the billing is received.

c) Payments not received by the last day of the coverage month shall be considered delinquent and shall result in the suspension of payment of claims for services provided. Payment of claims shall be withheld until the Department receives the full monthly premium due.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.325 Program Termination (Renumbered)

(Source: Section 2160.325 renumbered to Section 2160.260 at 25 Ill. Reg. _____, effective _____)

Section 2160.330 Signing the Agreement

Units and Facilities must sign an agreement with the Department.

- a) The first agreement shall cover the actual period the Unit or Facility is enrolled between July 1 through June 30 of the first Fiscal Year and through the end of the second Fiscal Year.
- b) Subsequent agreements shall be effective for 2 two State Fiscal Years.
- c) The agreement shall be prepared by the Department and shall contain the premium rates to be charged during the first Fiscal Year.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART D: RESPONSIBILITIES OF LOCAL GOVERNMENT
HEALTH PLAN REPRESENTATIVES

Section 2160.410 The Health Plan Representatives

- a) The Health Plan Representative shall be an Employee of the Unit or Facility designated by the Unit or Facility to perform the duties described in this Subpart.

by The Health Plan Representatives Representative shall:

- a) enroll Members and their Dependents; and
- b) provide enrollment, and termination and change in status information to the Department on enrollment and change forms provided by the Department; and

- c) provide coverage, enrollment and termination information to Members in accordance with the time schedules set by the Department as described in the Local Government Health Plan Member Handbook; and report to the Department all enrollments on the Enrollment Application and all terminations on the Local Government Health Plan Change/Verification Change Form. Enrollments/terminations received in the Department by

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

the 20th of the month will be processed and reflected on the next month's billing statement. The Unit or Facility will receive documentation of the transaction being processed through a Change/Verification Change Form.

- d) Disseminate to Members information regarding benefits available under the Program, changes and/or additions to the program, and any materials provided by the Department. ensure that the Dependent Statement of Health form is completed properly and submitted to the Administrative Service Organization when required for enrollment.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.420 Appeals Process Responsibilities

The Health Plan Representative or Member shall be responsible for handling appeals concerning claims payments.

- a) All correspondence concerning appeals must indicate the Unit or Facility in which the Member is enrolled in the Program.
- b) If a Member believes that an error has been made in the benefit amount allowed or disallowed, the Health Plan Representative or Member should contact the claims processing office of the managed care plan or the Administrative Service Organization. The member must utilize the Plan or the Administrator's review process to the fullest extent prior to contacting the Department.

- c) If the Member is not satisfied with the results of the review process his/her claim determination by the managed care plan or Administrative Service Organization, the Health Plan Representative or Member may submit a written request for review to by the Department.

- d) If the Member is still not satisfied, the Member may appeal to the Advisory Board, which serves as the appeal committee. The Advisory Board will review the documentation and facts presented in the final determination and make a recommendation to the Director, whose decision shall be final and binding on all parties. Notification of the decision will be made in writing.

- e) If after the Department review the Member is not satisfied with the results of his/her claims determination, the Health Plan Representative or Member may submit a written request for review to the Advisory Board, described in Section 2160.510. The Member if represented by a certified bargaining agent, may have a Union Representative present for advisory board appeals as a non-voting participant.

- f) Based on its review, the Advisory Board will make a recommendation to the Director whose decision shall be final and binding on all parties. The Advisory Board's recommendation and the Director's decision will be based on a determination of whether the claim is for services covered under the program. Factors considered by the Board and the Director shall include, but not be limited to information

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

contained in claims documentation, statements supporting such information, an evaluation of whether program requirements were interpreted and applied correctly, and review by a medical consultant if necessary.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART E: RESPONSIBILITIES OF THE ADVISORY BOARD

Section 2160.510 Appointment of Advisors

The Director shall establish the Local Government Health Plan Advisory Board. This Advisory Board shall consist of 7 seven advisors from Units, Facilities or Shelters who shall be appointed by the Director.

- a) Advisory Board members shall be appointed by the Director for terms beginning on September 1.
- b) Of the initial appointments, 3 three advisors shall be appointed for one year, 2 two advisors shall be appointed for 2 two years, and 2 two advisors shall be appointed for 3 three years. If the Unit or Facility from which the Advisor was appointed withdraws from the plan prior to the expiration of the term, the appointment will terminate. All subsequent appointments shall be 3 three year appointments or until the Unit or Facility withdraws from the plan, whichever is earlier.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.520 Responsibilities of the Board

The responsibilities of the Advisory Board shall consist of the following:

- a) The Advisory Board shall annually review material to be distributed to the Units; and Facilities.
- b) The Board shall:
- b1) advise the Department concerning any modifications needed to improve the administration of the Plan;
- b2) review rate setting methodologies;
- b3) hear appeals and make recommendations to the Director for final determination of coverage, as provided in Section 2160.420.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART F: FUNDING

Section 2160.610 Local Government Health Insurance Reserve Fund

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a) The Director shall establish the Local Government Health Insurance Reserve Fund. This Fund shall be a continuing fund not subject to Fiscal Year limitations.
- b) Monthly premium payments by Units and Facilities for group health coverage shall be deposited in this Fund. Monthly premium payments by Units and Facilities shall be the sole source of funds.
- c) All expenditures from this Fund shall be used for payments of Members' health care benefits and to reimburse the Department, and its Administrative Service Organizations and insurers Organization for all expenses incurred in the administration of the plan. No other State funds shall be used for these purposes.
- d) Any deficit in the Fund from one fiscal year shall be amortized over three years in three equal amounts.
- e) Any surplus in the Fund of the aggregate premium that occurs in one fiscal year shall be used to reduce the aggregate premium for the next year.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.620 Premium Rate Structure

The Director shall annually determine monthly rates of payment subject to the following constraints.

- a) A tiered rate methodology shall be employed.
- b) Units and Facilities shall be assigned a rate tier based on the projected costs for each Unit and Facility according to the following guidelines: listed below.

- 1) In the first Fiscal Year of coverage the rates shall be based on the cost of administration and the cost of medical services adjusted for age, sex, geographic or demographic characteristics, or other factors that may affect the costs of such programs. equal to the amount normally charged to the State employees for elected optional coverages or for enrolled dependents' coverages or other contributory coverages or contributed by the State for basic insurance coverages on behalf of its employees, adjusted for differences between State employees and Employees of the Unit or Facility in age, sex, geographic location, plus an amount which shall be between 48 and 148 of such charges sufficient to pay for the additional administrative costs of providing coverage to Members of a Unit or Facility and their Dependents. The proportion of the cost that the Unit or Facility contributes toward the dependent premium shall also be used in the calculation to determine the projected costs for the Unit or Facility. A margin to cover fluctuation in the amount of claims shall also be added to the premium. The amount of the margin applied shall vary, depending on the size of the Unit or Facility.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) In subsequent years, premium rates shall be based on prior years' claims experience, the cost of administration and the cost of medical services adjusted for age, sex, geographic or demographic characteristics, or other factors that may affect the costs of such programs. ~~a further adjustment shall be made to the premium rates to reflect both demographic data and actual prior years' claims experience of the Members of the Unit or Facility, plus an amount sufficient to pay for the additional administrative costs of providing coverage to Members of the Unit or Facility and their Dependents. The proportion that the Unit or Facility contributes toward the Dependent premium shall also be used in the calculation to determine the projected costs for the Unit or Facility. A margin to cover fluctuations in the amount of claims shall also be added to the premium. The amount of the margin applied shall vary (which shall be between 40 and 120 of such charges) depending on the size of the Unit or Facility.~~
- 3) ~~In the case of coverage under a health maintenance organization, the Director shall annually determine for each participating Unit or Facility the maximum monthly amount the Unit or Facility may contribute toward that coverage, based on an analysis of: the age, sex, geographic location, and other relevant demographic variables of Employees and the cost to cover those Employees under the State group health insurance plan.~~
- 4) ~~The Director may similarly determine the maximum monthly amount each Unit or Facility may contribute toward coverage of Dependents under a health maintenance organization.~~
- 35) Premium rates shall remain unchanged throughout the Fiscal Year. A Unit or Facility shall experience a one-tier rate increase or decrease if the projected costs, based on employee demographics and actual prior years' claims experience of Members and Dependents, warrant such an increase or decrease for the following Fiscal Year.
- c) Beginning with the first year, Units that and Facilities which enroll more than 250 +7000 Members may shall be individually experience rated to determine the monthly premium rates.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART G: HEALTH CARE COVERAGE

Section 2160.710 Local Government Health Plan

The Local Government Health Plan is similar to the same as the benefits health and dental plan offered by the State of Illinois to its employees.

- a) The Local Government Health Plan health benefits are described in the Local Government Health Plan Member Handbook that and shall be

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- provided to all Health Plan Representatives for distribution to all Members.
- b) All Units and Facilities participating in the Plan shall receive sufficient enough Local Government Health Plan Member Handbooks and Benefit Choice Options booklets to distribute to each of their Members.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 2160.720 Health Care Coverage

- a) Except as provided in subsections subsection (b) and (c), for any Member or Dependent under the Plan, there is no coverage for 6 six months after enrollment for health conditions that which have been treated during the 3 three months prior to enrollment, as described in the Local Government Health Plan Member Handbook.
- b) For all Members and their covered Dependents who enroll under the Plan at the time their respective Unit or Facility initially enrolls in the Plan, the limitation described in subsection (a) above shall not apply.
- c) The Pre-Existing Condition time period may be reduced by the amount of creditable coverage Members or Dependents may have had with another insurance plan prior to enrollment, provided there was not a break in coverage of more than 63 days. A Certificate of Creditable Coverage from the prior plan must be provided to the employing Unit to reduce the Pre-Existing Condition time period.
- de) Coverage begins for all Members and their covered Dependents at midnight of the day the Unit or Facility is enrolled in the Plan.
- d) The only exception to this rule occurs when a Member or Dependent of a Unit or Facility is confined to a hospital at the time of enrollment. Coverage shall begin when the Member or Dependent is released from the hospital. The Unit or Facility's previous insurance provider, if any, shall be responsible for all covered benefits which are incurred during the term of the hospitalization, including hospital or extended care facility charges, and laboratory and pharmacy costs.
- e) Evidence of insurability is required on all late dependent enrollments. Late dependent enrollment is defined as an upgrade of dependent coverage from Low Option to High Option, a request for coverage on a newly acquired dependent when request is made after the 30th day of the date of acquiring the new family member, request to add a dependent during the annual election period, or a request to add a dependent due to a change in family status made in writing within 60 days of the change occurring, in such cases, coverage is not guaranteed until approval is received from the Administrative Service Organization.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

_____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Refugee/Entrant/Repatriate Program

2) Code Citation: 89 Ill. Adm. Code 115

3) Section Numbers:

115.10	<u>Proposed Action:</u>
115.30	Amendment
115.32	Amendment
115.34	Amendment
115.36	Amendment
115.38	Amendment
115.40	Amendment
115.50	Amendment
115.60	Amendment

4) Statutory Authority: Implementing and authorized by Sections 12-4.5, 12-4.6 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.5, 12-4.6 and 12-13] and 45 CFR 400.

5) A Complete Description of the Subjects and Issues involved: Pursuant to federal regulations at 45 CFR 400, these proposed amendments revise the Refugee Resettlement Program. The major changes include:

- * for RRP cash assistance, starting with the date of application for cases approved on or after January 1, 2001;
- * for asylees, beginning the eight months of RRP eligibility from the date asylum is granted, not the date the person entered the United States;
- * budgeting for RRP cash assistance cases in the same manner budgeting is done for TANF, including allowing the 2/3 earned income disregard and quarterly reporting;
- * revising the exemptions from work registration;
- * revising the definitions of adult and child to more closely match the TANF program. A separate RRP case will be established for a child age 18 who is not a full-time high school student and for each child age 19 or 20;
- * for RRP medical, basing initial eligibility on income on the date of application, regardless of increases that may occur during application processing; and
- * for RRP medical, disregarding employment earnings if the refugee becomes employed after the date of application.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- * This rulemaking also replaces Aid to Families with Dependent Children (AFDC) references with Temporary Assistance for Needy Families (TANF).

6) Will this proposed amendment replace an emergency amendment currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the *Illinois Register* on page

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Disabled Hunting Method Authorizations

2) Code Citation: 17 Ill. Adm. Code 760

3) Section Numbers: 760.20
Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

5) A Complete Description of the Subjects and Issues Involved: These amendments create a new subsection 760.20(a)(5) which provides for issuance of crossbow permits to individuals who are legally blind.

6) Will this rulemaking replace any emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rulemaking was

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

not included on either of the 2 most recent agendas because: This Part was not listed on the January 2001 Regulatory Agenda because the Department did not anticipate that further amendments to this Part would be necessary.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 760

DISABLED HUNTING METHOD AUTHORIZATIONS

Section

760.10 Issuance of Permits

760.20 Crossbow Permits

760.30 Standing Vehicle Permits

760.40 Rejection of Application/Revocation of Permits

AUTHORITY: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

SOURCE: Adopted at 24 Ill. Reg. 4950, effective March 13, 2000; amended at 24 Ill. Reg. 19178, effective December 18, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 760.20 Crossbow Permits

a) Eligibility

After proper application, the Department may issue a permit to hunt with a crossbow to those persons who have a permanent physical impairment due to injury or disease, congenital or acquired, that renders them so severely disabled as to be unable to use a conventional bow and arrow device. A person who meets any of the following automatically qualifies for a crossbow permit:

- 1) Has an amputation or other loss of one or more arms.
- 2) Has an amputation or other loss of the index and middle finger on the draw and release hand.
- 3) Has a permanent substantial loss of function in one or both arms or one or both hands and fails to meet the minimum standards of any one of the following standard tests, administered under the direction of a licensed physician:
 - A) Upper extremity pinch.
 - B) Grip.
 - C) Nine-hole peg.
- 4) Has a permanent substantial loss of function in one or both shoulders and fails to meet the minimum standards of the standard shoulder strength tests, administered under the direction of a licensed physician.

5) Is blind.

- A) For the purpose of this subsection (a)(5), an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees.

- B) The holder of a crossbow permit issued under this subsection (a)(5) shall be accompanied by a person who is not eligible to apply for a permit under this subsection. The accompanying person may not hunt or carry a firearm, bow, or crossbow unless that person has the appropriate licenses and/or permits to do so. The assistance rendered by the accompanying person who has not been issued the appropriate licenses and/or permits shall be limited to sighting the crossbow, identifying the game and field dressing, tagging and retrieving game for the permit holder.

- C) By virtue of applying for a crossbow permit, the applicant is certifying that he or she is physically unable to use a conventional bow and arrow device. Once the crossbow permit is issued, and during the period that it is in effect, the permittee shall be limited to using a crossbow while archery hunting.

- b) Any applicant with a permanent physical disability who, after taking the standard tests described in subsections (a)(3) and (a)(4), fails to qualify for a crossbow permit may file a supplemental application with the Department for further consideration and review. The nature of the applicant's disability and how it renders the applicant unable to use a conventional bow and arrow device must be thoroughly explained on the supplemental application by the physician. The supplemental application shall be forwarded to a physician, selected by the Department, who is board certified in occupational and preventive medicine. The Department's physician will then notify the Department as to whether the applicant should be issued a crossbow permit.

- c) Permits issued under this Section shall be valid for a period of 3 years from the date of issuance specified on the permit.

- d) Loss of the crossbow hunting permit shall require the holder to reapply.

- e) Reapplication will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to use a conventional bow and arrow device.

- f) Crossbow Equipment Requirements

Crossbows used in hunting as authorized by a permit issued under this Section shall meet all of the following specifications:

- 1) Shall have a minimum peak draw weight of 125 pounds and a maximum peak draw weight of 200 pounds.
- 2) Shall have a minimum limb width of 24 inches and a minimum overall length (from butt of stock to front of limbs) of 24 inches.
- 3) Shall have a working safety.
- 4) Shall be used with bolts or arrows of not less than 14 inches in

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

length (not including point) with a broadhead. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blade must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. In accordance with 17 Ill. Adm. Code 530, flu flu arrows must be used on State owned and managed hunting areas for the taking of upland game.

g) Crossbow Hunting Rules

- 1) Crossbow permit holders are authorized to take game species during the seasons open to their taking by the use of archery devices. Season dates, hours, daily limits, possession limits, and all other requirements of law apply.
- 2) The issuance of a crossbow permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.
- 3) The crossbow permit must be carried by the hunter while exercising this privilege and must be presented to any law enforcement authority upon request.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: TeleFiling of Illinois Individual Income Tax Returns
- 2) Code Citation: 86 Ill. Adm. Code 107
- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 107.100 | <u>Proposed Action:</u> |
| 107.110 | New Section |
| 107.120 | New Section |
| 107.200 | New Section |
| 107.300 | New Section |
| 107.310 | New Section |
| 107.400 | New Section |

4) Statutory Authority: 35 ILCS 5

5) A Complete Description of the Subjects and Issues Involved: Creates a new part implementing a program that allows for the TeleFiling of Income Tax returns.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie A. Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

B) Reporting, bookkeeping or other procedures required for compliance: This is an alternative non-paper method for filing of individual income tax returns.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 107

TELEFILING OF ILLINOIS INDIVIDUAL INCOME TAX RETURNS

Section	
107.100	Composition of a TeleFile Return
107.110	Electronic Signature
107.120	Exclusions from TeleFile Filing
107.200	How to Participate
107.300	Balance Due General Information
107.310	Direct Deposit General Information
107.400	Confirmation of TeleFile Returns

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 25 Ill. Reg. _____, effective _____.

Section 107.100 Composition of a TeleFile Return

- a) "TeleFile" consists of a taxpayer using a touch-tone telephone to call a designated telephone number and reporting return or other document information through use of the number keys on the touch-tone telephone in response to an automated voice prompt system.
- b) An eligible TeleFile return consists of data filed with the Department via the TeleFile touch-tone telephone system, including an electronic signature. An eligible return may contain paper documents that are requested to be sent to the Department or retained by the taxpayer for verification. In total, eligible TeleFile returns contain the same information as traditionally filed paper documents.
- c) Forms and schedules included in an eligible return that can be filed via TeleFile include, but are not limited to, the following:
 - 1) IL-1040, Illinois Individual Income Tax Return, and
 - 2) W-2, Wage and Tax Statement.

Section 107.110 Electronic Signature

- a) The taxpayer's signature code, consisting of the taxpayer's social security number and Personal Identification Number (PIN), is to be used in lieu of a written signature when filing eligible returns, forms or other documents with the Department via TeleFile.
- b) The use of the PIN in combination with the social security number has the same legal effect as if the taxpayer had signed the eligible

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

- c) return or other documents that are part of that TeleFile filing. TeleFile filed eligible returns and other documents will be considered unsigned unless both components of the taxpayer's signature code are received by the Department as part of the TeleFile filing. (See 35 ILCS 5/503.)
- d) The signature code is considered to be valid until:
 - 1) The taxpayer notifies the Department that the signature code has been compromised, or
 - 2) The Department determines that the signature code has been compromised.

Section 107.120 Exclusions from TeleFile Filing

The following types of returns or other documents are excluded from this TeleFile program:

- a) Returns or other documents that are not listed in subsection (c) of Section 107.100 of this Part.
- b) Returns or other documents listed in subsection (c) of Section 107.100 of this Part that require additional forms, schedules, or other documents, or that require the reporting of information that the Department is unable to currently accept through the TeleFile program.

Section 107.200 How to Participate

- a) Only taxpayers that have been authorized as TeleFile Filers may participate and file their eligible return with the Department via TeleFile.
- b) A TeleFile Filer is a taxpayer authorized to file eligible returns via TeleFile. A taxpayer is authorized to file such returns once they receive a Personal Identification Number (PIN) from the Department. TeleFile Filers who are married and file joint returns will receive two PINs.
- c) A TeleFile Filer will enter information in accordance with the appropriate TeleFile worksheet provided by the Department through use of the number keys on a touch-tone telephone in response to an automated voice prompt system.
- d) At the end of a successfully completed TeleFile filing, the automated voice prompt system will confirm the return or other document has been filed with the Department by issuing a confirmation number as provided in Section 107.400 of this Part.
- e) The Department reserves the right to limit the number of participants and returns filed via TeleFile.
- f) The option of TeleFile filing will be available for participants until April 15 of the filing year or any other filing date designated by the Department in its booklets or on its website.

Section 107.300 Balance Due General Information

DEPARTMENT OF REVENUE

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

NOTICE OF PROPOSED RULES

- a) The TeleFile Filer is responsible for submitting payment of any balance due the Department no later than April 15 of the filing year. (See 35 ILCS 5/601.) Failure to make full payment by this date will result in the imposition of interest and penalties. (See 35 ILCS 735/3-2 and 3-3.)
- b) The TeleFile Filer may choose to pay the balance due by credit card. The TeleFile Filer may call a designated telephone number provided in the IL-1040 booklet to make such payment after completion of the TeleFile filing process. The TeleFile Filer is responsible for payment of any fee charged in order to make payment in this manner. Pursuant to 35 ILCS 5/605, the Department of Revenue will not pay any discount fee charged by the credit card issuer.

Section 107.310 Direct Deposit General Information

- a) Qualifying taxpayers may authorize their tax overpayments to be directly deposited into their savings or checking accounts with financial institutions, rather than receive paper refund checks. The authorization must be made when filing the TeleFile IL-1040 return by providing the appropriate information.
- b) The Department will ordinarily process an authorization for direct deposit, but reserves the right to initiate a paper refund check. The following conditions may cause the Department to not process a direct deposit:
 - 1) Taxpayer owes back taxes, either individual or business (refund offset);
 - 2) Taxpayer has certain State or federal delinquent debt, such as child support, student loans, etc. (refund offset);
 - 3) Estimated tax payments reported on the return do not match the estimated tax payments recorded on the Department's master file;
 - 4) Taxpayer is claiming an unallowable or improperly supported deduction or credit; and
 - 5) A TeleFile or other electronic return is accepted with a valid social security number that belongs to another taxpayer.
- c) The Department is not responsible for the misapplication of a direct deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, financial institution, or any of their agents.

Section 107.400 Confirmation of TeleFile Returns

- a) Upon successfully entering all the required return or other document information using the number keys on a touch-tone telephone, the TeleFile Filer will be given a confirmation number by the automated voice prompt system.
- b) TeleFile Filers must maintain a record of the confirmation number in order to establish that the returns or other documents were received by the Department on the dates that the confirmation numbers were issued.

- c) The date that the telephone call is completed and a confirmation number is issued by the automated voice prompt system is the received date for the return to which the confirmation number relates. Where a telephone call is initiated on one date and completed on another, the date that the telephone call is completed is the date of filing. The telephone call must be completed by 11:59 p.m. CST (please make adjustments for Daylight Savings Time if applicable) on the due date of the return for the TeleFile filing to be considered timely.
- d) TeleFile Filers cannot recall or intercept TeleFile filed eligible returns after the returns have been confirmed as received. If TeleFile Filers wish to change any entries after a return has been confirmed, a paper amended return, Form IL-1040-X, must be filed with the Department. (See also 86 Ill. Adm. Code 100.9400(f)(3).)
- e) When an eligible return has not been confirmed after several attempts, the TeleFile Filer should contact the Department for assistance by calling the telephone number provided in the IL-1040 booklet.
- f) Unless an eligible return is confirmed as filed by the Department, it will not be considered a filed return.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:
100.3380 Amendment
- 4) Statutory Authority: 35 ILCS 5/304(f)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 100.3380 to clarify the statutory authority for the provisions in that Section. That authority is contained in Section 304(f) of the Illinois Income Tax Act, which permits the Department of Revenue to require a taxpayer to use alternative methods of apportioning its business income between Illinois and the other states when the statutorily-prescribed method does not fairly represent the extent of the taxpayer's business activity in Illinois. The amendment also provides that the Department will exercise its authority to require use of alternative apportionment methods only by regulation, and will only require the use of a particular method to apportion income in tax years ending after the effective date of the rulemaking prescribing that method, except in the case of a taxpayer who has voluntarily been using that method in earlier years. Also, the Department will permit a taxpayer to use a particular method for tax years ending before the effective date of the rulemaking prescribing that method if the taxpayer so requests.
- The rulemaking also adopts a new apportionment method, which requires taxpayers whose income from foreign sources is excluded from federal taxable income tax (and therefore from net income subject to Illinois income tax) to apportion their taxable business income using only their domestic apportionment factors. In other words, the apportionment factors associated with the excluded income are excluded from the apportionment formula.
- 6) Will this proposed amendment replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
100.5040	New Section	24 Ill. Reg. 16218, 11/03/00
100.5250	Amendment	24 Ill. Reg. 16555, 11/13/00
100.9000	Amendment	24 Ill. Reg. 16555, 11/13/00
100.9100	Amendment	24 Ill. Reg. 16555, 11/13/00

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 100.9710 New Section 24 Ill. Reg. 16957, 11/17/00
- 100.5130 Amendment 24 Ill. Reg. 17496, 12/01/00
- 100.2165 Amendment 24 Ill. Reg. 17713, 12/08/00
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:
- Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield Illinois 62794
(217) 782-7055
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking clarifies the instances in which the Department will exercise its authority to require the use of alternative apportionment methods by small businesses operating both within and without Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000
100.2050

Introduction
Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

100.2101
100.2110
100.2120

Replacement Tax Investment Credit (IITA 201(e))

Investment Credit; Enterprise Zone (IITA 201(f))
Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

100.2130
100.2140
100.2150

Investment Credit; High Impact Business (IITA 201(h))
Credit Against Income Tax for Replacement Tax (IITA 201(i))
Training Expense Credit (IITA 201(j))

100.2160
100.2165
100.2170

Research and Development Credit (IITA 201(k))
Education Expense Credit (IITA 201(m))
Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

Credit for Residential Real Property Taxes (IITA 208)
Dependent Care Assistance Program Tax Credit (IITA 210)

100.2180
100.2195

Subpart C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

100.2220

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members

100.2230

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income

100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER
DECEMBER 31, 1986

Section
100.2300

Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310
100.2320
100.2330

Computation of the Illinois Net Loss Deduction

Determination of the Amount of Illinois Net Loss Carryovers
Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986

100.2340

Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350

Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2470

Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480

Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580

Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

100.2590

Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.2660 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF
BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credit for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings
100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents
TABLE A Example of Unitary Business Apportionment
TABLE B Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. _____, effective _____.

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3380 Special Rules (ITRA Section 304)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

a) ITRA Section 304(f) provides that if the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may require, in respect of all or any part of the person's business activity, if reasonable:

- 1) Separate accounting;
- 2) The exclusion of any one or more factors;
- 3) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or
- 4) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

The Director has determined that, in the instances described in this Section, the apportionment provisions provided in subsections (a) through (e) and (h) of ITRA Section 304 do not fairly represent the extent of a person's business activity within Illinois. For tax years ending on or after the effective date of a rulemaking amending this Section to prescribe a specific method of apportioning business income, all nonresident taxpayers are directed to apportion their business income to Illinois. Taxpayers whose business activity within Illinois is not fairly represented by a method must file a petition under Section 100.3390 of this Part requesting permission to use an alternative method of apportionment. For tax years ending prior to the effective date of the rulemaking adopting a method of apportioning business income, the Department will not require a taxpayer to adopt that method; provided, however, if any taxpayer has used that method for any such tax year, the taxpayer must continue to use that method that tax year. Moreover, a taxpayer may file a petition under Section 100.3390 of this Part to use a method of apportionment prescribed in this Section for any open tax year ending prior to the effective date of the rulemaking adopting that method, and such petition shall be granted in the absence of facts showing that such method will not fairly represent the extent of a person's business activity in Illinois.

b) Property factor. The following special rules are established in respect to the property factor in ITRA Section 304(a)(1) of the apportionment-formula:

- 1) If the subrents taken into account in determining the net annual rental rate under Section 86-III--Adm--Code 100.3350(c) of this Part produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the Director or requested by the person. In no case however shall such value be less than an amount which bears the same ratio to the annual rental rate paid by the person for such property as the fair market value of that portion of the property used by the person bears to the total fair market value of the rented property.

Example: A corporation rents a 10-story building at an

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

annual rental rate of \$1,000,000. The corporation occupies two stories and sublets eight stories for \$1,000,000 a year. The net annual rental rate of the taxpayer must not be less than two-tenths of the corporation annual rental rate for the entire year, or \$200,000.

- 2) If property owned by others is used by the person at no charge or rented by the person for a nominal rate, the net annual rental rate for such property shall be determined on the basis of a reasonable market rental rate for such property.

c)b Sales factor. The following special rules are established in respect to the sales factor in IITA Section 304(a)(3) ~~of the apportionment formula:~~

- 1) In the case of sales where neither the origin nor the destination of the sale is within this State, and the person is taxable in neither the state of origin nor the state of destination, the sale will be attributed to this State (and included in the numerator of the sales factor) if the person's activities in this State in connection with the sales are not protected by the provisions of P.L. 86-272, 15 USC 381-385. Although P.L. 86-272, by its terms covers only sales of tangible personal property, its rules regarding a state's power to impose a net income tax, for purposes of this special rule, will be applied whether the sale is of tangible or intangible property.

Example: A corporation's salesman operates out of an office in Illinois. He regularly calls on customers both within and without Illinois. Orders are approved by him and transmitted to the corporation's headquarters in State A. If the property sold by the salesman is shipped from a state in which the corporation is not taxable to a purchaser in a state in which the corporation is not taxable, the sale is attributable to Illinois.

- 2) Where substantial amounts of gross receipts arise from an incidental or occasional sale of assets used in the regular course of the person's trade or business, such gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

- 3) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless such exclusion would materially affect the amount of income apportioned to this State. For example, the person ordinarily may include or exclude from the sales factor gross receipts from such transactions as the sale of office furniture, business automobiles, etc.

- 4) Where the income producing activity in respect to business income from intangible personal property can be readily identified, such income is included in the denominator of the sales factor and, if the income producing activity occurs in this State, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

interest income received on deferred payments on sales of tangible property (Section 86-~~111~~-Adm-Code 100.3370(a)(1)(A) of this Part) ~~and income from the sale, licensing or other use of intangible personal property~~ (86-~~111~~-Adm-Code 100.3370(e)(3)(A)).

- 5) Where business income from intangible property cannot readily be attributed to any income producing activity of the person, such income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. The following provisions illustrate this concept:

A) Subpart F (26 USCA 951-964) income is passive income generated by the mere holding of an intangible. For taxable years ending on or after December 31, 1995, Subpart F income is excluded from the sales factor under IITA Section 304(a)(3)(D). For prior taxable years, there is a rebuttable presumption that Subpart F income is not includable in either the numerator or the denominator of the sales factor. If a taxpayer wishes to include Subpart F income in either the numerator or the denominator of the sales factor, the burden of proof is on the taxpayer to identify the income producing activities and to situs those activities within a particular state, or

B) where business income in the form of dividends received on stock during taxable years ending before December 31, 1995, ~~royalties received on patents or copyrights~~ or interest received on bonds, debentures or government securities results from the mere holding of intangible personal property by the person, such dividends, ~~royalties~~ and interest shall be excluded from the denominator of the sales factor.

- 6) In the case of sales of business intangibles (including, by means of example, without limitation, patents, copyrights, bonds, stocks and other securities), gross receipts shall be disregarded and only the net gain (loss) therefrom shall be included in the sales factor.

Example: In 1990, Corporation A, a calendar year taxpayer, sells stock with an adjusted basis of \$98,000,000 for \$100,000,000, realizing a federal net capital gain of \$2,000,000. Only the net capital gain of \$2,000,000 is reflected in A's sales factor for the taxable year ending December 31, 1990.

d)e Rule for inclusion of shares of partnership unitary business income and factors in combined unitary business income and factors of corporate partners. When the activities of a corporate partner (or the activities of a unitary business group including the corporate partner) and the activities of a partnership, disregarding ownership requirements, constitute a unitary business relationship, then the partner's share of the partnership's income and factors shall be

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

combined with the business income and factors of the partner or with the combined business income and factors of the unitary business group including the partner, as the case may be. The activities of a corporate partner and the activities of a partnership will constitute a unitary business relationship when such activities are integrated with, dependent upon, and contribute to each other. However, this subsection (c) will not apply to shares of income from partnerships whose business activity outside the United States is 80% or more of such partnership's total business activity, where the partnership has a different apportionment method than the corporate partner, or where the partnership is not in the same general line of business or a step in a vertically structured enterprise with the corporate partner. This subsection (c) is applicable to all taxable years for which the statute of limitations for filing claims for refund and for issuing notices of deficiency are open, except those tax years ending on or after the effective date (April 24, 1984) of Section 100.9700(e)(2) and ending prior to its repeal where the taxpayer relied upon that subsection.

e) Apportionment of Business Income by Foreign Taxpayers

1) Under 26 USC 882, foreign corporations include only effectively-connected income in their federal taxable income. Foreign taxpayers may exclude other items of income from their federal taxable income if authorized under treaty, as provided in 26 USC 894. Using a foreign taxpayer's worldwide apportionment factors to determine how much of its domestic business income should be apportioned to Illinois would not fairly represent that taxpayer's business activities within Illinois. Accordingly, a foreign taxpayer shall use only the apportionment factors related to its domestic business income when apportioning its business income to Illinois. Similarly, in determining whether 80% or more of a foreign taxpayer's total business activity is conducted outside the United States for purposes of ITRA Section 1501(a)(27), that taxpayer must use only the apportionment factors related to the business income included in its federal taxable income (plus addition modifications), rather than use all of its worldwide factors.

2) Foreign Sales Corporations. Under 26 USC 921, "exempt foreign trade income" of a foreign sales corporation is treated as foreign source income excluded from gross income. "Exempt foreign trade income" is defined in 26 USC 923 to equal the sum of the amounts of income derived from various categories of transaction, with the income from each category multiplied by specific percentages. As a general rule, there is no systematic relationship between transactions qualifying for this treatment and any particular item of property or payroll of a foreign sales corporation. Accordingly, the provisions of subsection (e)(1) of this Section shall not apply to a foreign sales corporation and, in apportioning its business income and in determining whether

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

80% or more of its business activity is conducted outside the United States, a foreign sales corporation shall use all of its apportionment factors.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Industrial Training Program
- 2) Code Citation: 56 Ill. Adm. Code 2650
- 3)

<u>Section Number:</u>	<u>Adoption Action:</u>
2650.10	Amend
2650.20	Amend
2650.30	Amend
2650.40	Amend
2650.50	Amend
2650.120	Amend
2650.130	Amend
2650.310	Amend
2650.320	Amend
2650.330	Amend
- 4) Statutory Authority: Implementing Section 46.19a(1) and authorized by Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.19a(1) and 46.42], and Public Act 88-0456.
- 5) Effective Date of amendment: February 9, 2001
- 6) Does this rulemaking contain an automatic repeal date?
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Has JCAR issued a Statement of Objection to these amendments? No
- 10) Difference(s) between proposal and final version? Proposed deletion of text regarding institutions of secondary and higher education was determined to be a necessary part of the rule and was left in.

In Section 2650.40, change "that the Department shall determine, provided that no grant shall exceed 50% of the total approved training costs" to "agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs".

In Section 2650.40, change "shall be made on the terms and conditions that the Department shall determine, provided that no grant shall exceed 50% of

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- the total approved direct training costs" to "will allow for the reimbursement or payment on the terms and conditions agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs".
- In Section 2650.130, change "(1985)" to "(1999)".
- In addition, grammatical and stylistic changes were made.
- 11) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.
 - 12) Will these amendments replace emergency amendments currently in effect?
No
 - 13) Are there any amendments pending on this Part? No
 - 14) Summary and Purpose of Amendments: This rulemaking encourages entrepreneurial education and self-employment training programs under the Industrial Training Program (ITP) while broadening the eligibility for multi-company grantees by allowing projects to be sponsored by industry associations. It allows both the grantee and the Department broader authority to negotiate the terms and conditions for the payment of the training costs. As a result of federal legislation, it removes any reference to the Job Training Partnership Act entities and replaces with Workforce Investment Act language.
 - 15) Information and questions regarding these adopted amendments shall be directed to:

Ms. Raya Bogard
Administrative Code Rules Manager
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph
Suite 3-400
Chicago, IL 60601
(312) 814-9593

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRSPART 2650
INDUSTRIAL TRAINING PROGRAM

SUBPART A: GENERAL REQUIREMENTS

Section	Purpose
2650.10	Definitions
2650.20	Eligible Applicants and Training Activities
2650.30	Allowable Costs
2650.40	Grant Administration Requirements
2650.50	Nondiscrimination
2650.60	Selection for Funding (Recodified)
2650.70	Allowable Costs (Recodified)
2650.80	Grant Administration Requirements (Recodified)
2650.90	Nondiscrimination (Recodified)
2650.100	

SUBPART B: SINGLE COMPANY
APPLICANTS

Section	Purpose
2650.110	Application Procedures
2650.120	Application Documentation
2650.130	Application Evaluation
2650.140	Selection for Funding

SUBPART C: SECONDARY AND POST-SECONDARY EDUCATION INSTITUTION APPLICANTS
(Repealed)

Section	Purpose
2650.210	Application Procedures (Repealed)
2650.220	Application Documentation (Repealed)
2650.230	Application Evaluation (Repealed)
2650.240	Selection for Funding (Repealed)
2650.250	Reporting Requirements (Repealed)

SUBPART D: MULTI-COMPANY AND MEMBERSHIP TRAINING PROJECT
APPLICANTS

Section	Purpose
2650.310	Application Procedures
2650.320	Application Documentation
2650.330	Application Evaluation
2650.340	Selection for Funding
2650.350	Administrative Requirements (Repealed)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing Section 605-800 and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605-800 and 605-95].

SOURCE: Adopted at 11 Ill. Reg. 11642, effective June 29, 1987; recodified at 13 Ill. Reg. 15386; emergency amendments at 13 Ill. Reg. 16126, effective September 27, 1989, for a maximum of 150 days; emergency expired February 24, 1990; amended at 14 Ill. Reg. 5075, effective March 20, 1990; amended at 16 Ill. Reg. 17969, effective November 17, 1992; amended at 19 Ill. Reg. 15374, effective October 20, 1995; amended at 21 Ill. Reg. 12124, effective August 26, 1997; amended at 25 Ill. Reg. 2987, effective FEB - 2001.

SUBPART A: GENERAL REQUIREMENTS

Section 2650.10 Purpose

Through the Illinois Industrial Training Program (Program), the Department of Commerce and Community Affairs (Department) will provide training grants to businesses operating or locating in Illinois in conjunction with planned permanent expansion, location or retention activities; and to multi-company training projects sponsored by business or industry associations, institutions of secondary and higher education, strategic business partnerships, ~~grant recipients or administrative entities under the Job Training Partnership Act or any successor federal employment and training programs~~, large manufacturers for supplier network companies, and labor organizations. The purpose of the program is to enhance employment opportunities for Illinois citizens by assisting Illinois employers in the training of their workforce, and to assist multi-company training projects in addressing common employee training needs identified by participating companies, and to facilitate self-employment by encouragement and preparation through comprehensive, instructional programs and services and entrepreneurial education.

(Source: Amended at 25 Ill. Reg. 2987, effective FEB - 2001.)

Section 2650.20 Definitions

Director - The Director of the Department of Commerce and Community Affairs.

Employee Training - Training programs, either on-the-job, classroom or any combination thereof, sponsored by an employer or other eligible grant recipient on behalf of employers, which are intended to provide employees with the skills required to perform their current job or as a condition of continued employment. The employee skill requirements are established by the employer or participating employers and may include basic, technical and managerial skills.

Entrepreneurial Education and Training - Any education and training

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

program operated by or in cooperation with the Illinois Institute for Entrepreneurial Education for youth and/or adult learners that is intended: to enhance the business-building capabilities of aspiring and practicing entrepreneurs; to assist executives in transition who are interested in entrepreneurial growth opportunities; to encourage an early interest in entrepreneurship among youth; to develop programs for successful companies that want to expand the growth of entrepreneurship within their own organizations; and/or, to introduce low-income and at risk youth to the world of business and entrepreneurship by teaching them how to develop and operate their own small business; and/or to enhance the business-building capabilities of researchers, developers, inventors, professors and other to successfully commercialize technology into viable business enterprises.

Grantee - Any program applicant whose proposal is funded by the Department through a grant.

Labor Organization - Any collective bargaining unit or any labor entity formed by collective bargaining units such as state labor councils, district labor councils, local central labor councils and international unions as well as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

Large Manufacturers Supplier Network - Any company located or with facilities in the State of Illinois which supplies products or services to an original equipment manufacturer or large manufacturing assembly facility in Illinois.

Location Activities - Activities necessary to place or attract new companies to Illinois (e.g., training).

Multi-Company Training Project - Any project submitted for the benefit of more than two companies which addresses the common employee training, retraining or skills upgrading needs identified by participating companies. The participating companies shall not include units of local, municipal, home rule, county, state or federal government or government agencies or government-operated facilities.

New Employee - An individual who is hired by the grantee during the term of a training contract or who is permanently transferred to Illinois during the term of a training contract.

Planned Permanent Expansion - Any of the following will apply:

Permanent increase in the workforce (no minimum number of new jobs required);

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

Addition of new product line or expansion of existing product line; or

New capital investment in machinery or equipment.

Retention Activities - Activities necessary to keep existing companies in Illinois that might otherwise leave the State or reduce their workforce (e.g., retraining, upgrading, cross-training).

Self-Employment Training Program - A competency-based business management training program in which demonstrated proficiency to complete a business operating and financing plan is a prerequisite to successful completion.

Retraining - The training of an employee with the intent that the employee will learn to perform a significantly different type of job than was previously held by that employee.

Strategic Business Partnership - A formal or informal agreement between more than two businesses with facilities in Illinois where an objective of the partnership is to address employee training or other common workforce development issues among the participating businesses.

Trainee - A full-time existing or newly-hired employee of a company who is participating in a training, retraining or skills upgrading program. Part-time, seasonal, temporary and/or contractual employees cannot be considered trainees for program reimbursement.

Upgrade Training - The enhancement of employees' job skills with the intent that the employee will continue working at the same type of job (e.g., cross-training of skilled employees).

(Source: Amended at 25 Ill. Reg. 2882, effective 1/1/01.)

Section 2650.30 Eligible Applicants and Training Activities

a) Any business concern locating, expanding, or having a facilities) in Illinois and that is undertaking one or more of the following training activities:

- 1) Training programs in response to new or changing technologies or processes being introduced in the workplace;
- 2) Training necessary to implement total quality management or improvement systems in the workplace;
- 3) Job-linked training to upgrade existing employees' skills that leads directly to long-term job security;
- 4) Training employees in skills necessary to enable the company to

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- establish or expand into new export markets;
- 5) Training in conjunction with new or additional product lines;
 - 6) Training related to new machinery or equipment;
 - 7) Training new or existing employees of companies that are locating or expanding in Illinois;
 - 8) Basic and/or remedial training of employees as a prerequisite for other vocational or technical skills training; and
 - 9) Training related to regulatory compliance issues mandated for the workplace.

b) The Director also will accept applications submitted by Illinois-based business and industry associations, institutions of secondary and higher education, strategic business partnerships, ~~grant-recipients or administrative entities under the Job-Training-Partnership Act~~, large manufacturers for supplier network companies, and labor organizations on behalf of multi-company training projects where such projects address the common employee training needs identified by participating companies or the common training needs identified by the organization's membership. Eligible training activities for multi-company or membership training projects include, but are not limited to, one or more of the following:

- 1) Training programs in response to new or changing technology being introduced in the workplace.
- 2) Job-linked training to upgrade existing employees' skills that leads directly to long-term job security.
- 3) Training necessary to implement total quality management or improvement systems within the workplace.
- 4) Training related to new machinery or equipment.
- 5) Training of employees or companies that are expanding into new markets or expanding exports from Illinois.
- 6) Basic and/or remedial training of employees as a prerequisite for other vocational or technical skills training.
- 7) Other training activities and/or projects related to the support, development or evaluation of job training programs, activities and delivery systems, including training needs assessment and design.

8) Self-employment training of the unemployed and underemployed with comprehensive, competency-based instructional programs and services, entrepreneurial education and training initiatives for youth and/or adult learners in cooperation with the Illinois Institute for Entrepreneurial Education, training and education, conferences, workshops and best practice information for local program operators of entrepreneurial and self-employment training programs.

(Source: Amended at 25 Ill. Reg. 2993.02 effective FEB-9-2001)

Section 2650.40 Allowable Costs

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- a) Grants for employee training to single companies will allow for the reimbursement or payment on the terms and conditions agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs. ~~of up to 50% of the total approved training costs.~~
- 1) Instructor costs, including wages, fringe benefits and travel expenses.
 - 2) Costs for tuition and educational fees.
 - 3) Training materials.
 - 4) Rent or lease of training equipment and/or facilities.
 - 5) Other usual and customary training costs.
 - 6) Trainee travel expenses.
 - 7) Trainee wages and fringe benefits.
 - 8) Audit costs.

b) Grants for multi-company or membership training projects will allow for reimbursement or payment on the terms and conditions agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs. ~~With allow-for-the-reimbursement-of-up-to-50%-of-the-total-approved-direct training-costs.~~ For the multi-company training projects, the Department requires that a minimum of 50% of the local contribution be a direct cash contribution toward the training project by the companies participating in the training project. Allowable costs for multi-company or membership training projects include:

- 1) Administrative costs of tracking, documenting, reporting, auditing and processing training funds or project costs. Administrative costs must be reasonable and shall not exceed 15% of the total approved direct training expenditures costs, including indirect costs.
 - 2) Costs of curriculum development. The Department will only reimburse for the costs of curriculum development when such curricula are judged by the Department as being of benefit to multiple Illinois employers and such curricula will be considered to be in the public domain.
- The Grantee shall include the following statement in all written materials produced in whole or in part by funds awarded under this Grant Agreement: "This publication and material were

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

supported in whole or in part by an Industrial Training Program grant awarded by the Illinois Department of Commerce and Community Affairs. Representations made by this publication and material do not necessarily reflect the opinions and conclusions of the Department."

The Department reserves the right to request at least one copy of all training materials used by the Grantee or any subcontractor for training which is eligible for reimbursement under the grant. The Department will not distribute any proprietary information nor circulate any training materials without the expressed consent of the Grantee or subcontractor with the exception of those materials which are developed in whole or in part with State funds.

- 3) Training materials, including manuals, workbooks, videotapes and other materials that are used for training purposes only. Any item that can be depreciated will not be considered to be training materials.
- 4) Instructor costs, including wages, fringe benefits, tuition and travel expenses.
- 5) Rent or lease of training equipment and/or facilities.
- 6) Other usual and customary training costs.

(Source: Amended at 25 Ill. Reg. 2987 effective FEB - 9 2001)

Section 2650.50 Grant Administration Requirements

- a) Audits - The Department reserves the right to conduct special audits at any time during normal working hours of funds expended under Department grants (e.g., evidence of fraud or abuse). ~~if the Grantee is a secondary or post-secondary education institution, it shall comply with the applicable audit requirements of 47-1111-Adm-Code 490.~~ If the Department determines that an audit of grant funds will be required for an individual company, the scope of the audit will be outlined in the grant contract.
- b) Monitoring - The Director will ensure that a minimum of one on-site grant monitoring visit is conducted by the Department either during the course of the grant period or within six months following the end of the grant period. The Department will verify that the Grantee's financial management system is structured to provide for accurate, current and complete disclosure of the financial results of the grant program in accordance with all provisions, terms and conditions contained in the grant contract. The Department also reserves the right to contact any company participating in a multi-company training project funded by this program to verify the information submitted by the Grantee on behalf of the participating company.
- c) Training Evaluation Report - The Grantee must submit to DCCA, within 60 days following the end of the grant period, a descriptive written

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

evaluation of the results of the training experience by either the company, in the case of single-company grantees, or the companies participating in the training project, in the case of multi-company training projects. The narrative evaluation report should be based on the measurable outcomes or benefits contained in the grant application submitted and approved by DCCA. DCCA reserves the right to withhold any future year funding for noncompliance with this provision.

- d) Reporting Requirements - To receive ~~reimbursement~~ payment for training costs which have been incurred by a Grantee in accordance with the Scope of Work and Budget contained in the grant contract with the Department, the Grantee shall furnish evidence to the Department of having completed training by following either a monthly certification schedule or other schedule negotiated by the Department and the Grantee. This certification shall be filed on forms provided to the Grantee by the Department. Payments to the Grantee are subject to the initiation of an invoice-voucher which shall be due to the Department according to the schedule established in the grant contract. A project summary report shall be due to the Department either each month, or as negotiated, consisting of an analysis of major project activities; a listing of clients served, if the project served clients; and an evaluation of how the project's operation is related to the objectives of the grant.
- e) Grant Closeout - The Grantee shall be responsible for completing the grant closeout package which shall be provided by the Department and identifies the financial status of these grant funds. The Grantee, upon submission of the closeout package, or within 45 days after expiration of the grant, whichever is first, shall refund to the Department any balance of funds, including administrative costs, which were unexpended or unobligated at the end of the grant period. In addition, the Grantee shall repay the Department for any funds that are determined by the Department to have been spent in violation of the grant contract. If the grant contract should terminate for any reason, the closeout package shall be due within 45 days after the date of termination.
- f) For the purpose of Subparts B and D of this Part, the provisions specified in 47 Ill. Adm. Code 1.30, 1.40, 1.60, 1.70, 1.80, 1.90, 1.100, 1.105, 1.110, 1.120, 1.140, and 1.185 are applicable.

(Source: Amended at 25 Ill. Reg. 2987 effective FEB - 9 2001)

SUBPART B: SINGLE COMPANY APPLICANTS

Section 2650.120 Application Documentation

Applications will include documentation of the following:

- a) Application Cover Page - which contains name, address, and telephone number of applicant; ~~type-of-company~~ name, address, e-mail address

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

and telephone and fax numbers **number** of training coordinator **provider**, if different from the **an** applicant; amount of program funds being requested; starting and ending dates of program; total number of new and upgraded employees to be trained; current number of employees working in administration and production; company Federal Employment Identification Number (F.E.I.N.); Standard Industrial Code (S.I.C.); Illinois Unemployment Insurance Account Code; Senate District number; Representative District number; **authorized--signature**; indication whether the company is located in an Illinois State Enterprise Zone; indication whether company is reopening a facility which had been previously closed; the name of labor unions **union**; representing employees at the facility, if applicable; and an indication of whether the company applied for or received training assistance under the program in prior fiscal years.

b) Business Certification - a form which must be signed and dated by the Chief Executive Officer or duly authorized representative of the applicant company certifying that the applicant:

- 1) Understands that the receipt by the Department of an application for training assistance is not a guarantee or commitment by the Department for funding;
- 2) Agrees to discuss with representatives of the local Workforce Investment Act (WIA) **Job-Training-Partnership-Act--(JTPA)** office the hiring of WIA **JTPA**-eligible individuals for new jobs which are created as a result of this project;
- 3) Agrees to submit to the Department, on a monthly basis, information regarding training activity as required for reimbursement under the Industrial Training Program;
- 4) Agrees to submit to the Department, within 60 days following the end of the grant period, a written evaluation of the results of the training experience by the company. The evaluation report should be based on the measurable outcomes or benefits contained in this grant application;
- 5) Maintains that it is a company in good standing, authorized to do business in Illinois and has no delinquent State tax liabilities;
- 6) Authorizes the Department of Commerce and Community Affairs to verify in any manner deemed appropriate any and all items indicated in this application which include information obtained through the Illinois Department of Employment Security, Consumer Credit Bureau Services and business reporting services such as Dun and Bradstreet;
- 7) Agrees to immediately notify the Department regarding any major business or personnel changes at their facility (e.g., layoff situations, changes in training plans or schedules);
- 8) Acknowledges that if their application is funded, they will be required to comply with the Illinois Drug Free Workplace Act, the Americans with Disabilities Act and the Illinois Human Rights Act and any future laws enacted which may be applicable to the grant;
- 9) To the best of its knowledge as of the date of the application,

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

is not in material violation of any local, State or federal labor laws at the site and that abnormal labor conditions such as a strike or lockout do not exist at this site;

10) Maintains that all information contained in the application, including the documentation, is accurate, complete and true to the best of their knowledge;

11) Agrees to submit to the Department by the end of the grant period the Social Security Number of all employees participating in the approved training program; **and**

12) Agrees to notify all trainees that, if funded, the training is being partially funded by an Industrial Training Program grant administered by the Department of Commerce and Community Affairs; **and**

13) Agrees that, upon request by the Department, it will conduct an audit of the grant funds in accordance with generally accepted auditing standards and any special audit conditions that the Department deems necessary to ensure the accountability of public funds.

c) Training Outline - which details, by job classification or training course, minimum skills desired for entry into training by job or training course and additional skills to be acquired in training by job or training course.

d) Program Outline Timetable - which details the training schedule of employee entry by job classification or training course per month into the program.

e) Training Outline Data/Trainees - which lists the job classification or training course and the number of trainees for each classification or training course. This form lists the number of new and upgraded trainees, the number of hours of training requested for each trainee or training course, and the average wage paid to the employees in that job classification or training course. **Training--Outline--Data--(Trainees)--which--details--by--job--classification--or--training--course--the--number--of--employees--amount--of--training--time--hourly--rate--starting--wage--and--trainee--wage--at--completion--of--training**

f) Training Outline Data/Trainers - which identifies all instructors or entities conducting training. The number of instructors, the total number of instructional hours and the instructor costs, including tuition and fees, are required. **Training--Outline--Data--(Trainers)--which--details--the--trainers--or--course--names--the--number--of--instructional--hours--and--the--cost--of--the--training**

g) Project Budget Summary - which details the total cost of training and the requested grant amounts of the program and other available training programs in Illinois (e.g., Workforce Investment Act, Welfare-to-Work, Job-Training-Partnership-Act--Program, Secretary of State Literacy Office Grant Program, Prairie State 2000 Program).

h) Attachments as applicable:

- 1) Attach a brief narrative explaining each line item on the budget summary. The narrative shall state how each "total costs" figure

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

was obtained and should provide information regarding how all training hours and other training costs will be tracked and documented.

- 2) Financial statements consisting of profit and loss statements and balance sheets for the last three years, and tax returns for the last three years. For newly-established companies, a three-year projected balance sheet and profit and loss statement and a one-year monthly cash flow statement are required. Companies submitting financial information more than six months old must submit a statement regarding why more current information is not available. 7-or-pro-forma-statements-and-cash-flow-projections for-the-next-two-years---industries-not-having-these-financial reports-must-include-a-letter-of-reference-from-their-bank-and back-up-financial-data-to-show-their-solvency.

- 3) Transmittal letter providing information on: recent trends and significant events in the company's workforce, sales, competition, production, markets, and facility locations; how applicant will coordinate and use other training programs for funding, as appropriate; describe training activities, including training content, training providers, timeline, training methods, assessment techniques and how the training is linked to any new capital investment; and how these activities will be linked to work unit and/or company performance. the---company-biography including-ownership-length-of-time-in-business-a-description-of the-products-manufactured-or-services-provided-a-discussion-of applicant's-major-customers---and-competitors-and-the-namets-of the-labor-unions-representing-its-employees-if-applicable-a description--and--amount-of-any-new-capital-investment-within-the past-year-and-upcoming-year-and-whether-this-capital-investment is-related-to-the-training--the-need-for-the-training-by-the company--the-location-of-the-training-site-the-namets--of--the training-providers---and--the-expected-measurable-outcomes-or benefits-of-the-training-program-and-a-description-of-how-these benefits-will-be-measured.

- 1) Disclosure of Financial Information - a form which may be signed and dated by the Chief Executive Officer certifying that the commercial and financial information contained in the grant application is proprietary, privileged, confidential or is of a nature that its disclosure may cause competitive harm to the applicant, thereby rendering the application exempt from disclosure under Section 7 of the Freedom of Information Act [5 ILCS 140].

(Source: Amended at 25 Ill. Reg. 2987 effective 1-8-92001)

Section 2650.130 Application Evaluation

The Department shall screen all applications to determine that all requirements

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

of the application package have been addressed. Complete applications will be reviewed and evaluated comparatively by Department staff. This review and evaluation process will be completed within 75 seventy-five days of receipt of all required information. Department staff will conduct a technical and financial evaluation of each application.

- a) Technical Evaluation Component - Each application will be reviewed to assure compliance with technical program requirements as detailed in Sections 2650.30 and 2650.120.
- b) Financial Evaluation Component - The company's audited financial statements, including the annual balance sheets and profit and loss statements for the past three years, or other acceptable financial information as determined by the Department, will be reviewed through a standard credit analysis which will determine the liquidity and debt coverage for the project; ability of the company to manage debt; business trends; and projected earnings. This data will be compared to similar data for companies in the same industry using "Robert Morris Associates Annual Statement Studies" (1999 #965), if such industry is evaluated by this source. This standard credit analysis will determine the financial stability of the company.
- c) Application Evaluation - Those applications determined eligible for funding based on the evaluation process described in subsections (a) and (b), will be evaluated according to the following criteria:

- 1) Project readiness (e.g., time schedule for project initiation, etc.);
- 2) Average wage rate of trainees;
- 3) New capital investment (e.g., training directly relates to jobs, etc.) and capital investment per trainee;
- 4) Applicant has identified specific and measurable training objectives;
- 5) Financial feasibility of the project as determined by the financial evaluation described in subsection (b);
- 6) Compliance with terms and conditions under previous Industrial Training Program grant awards;
- 7) County unemployment rate;
- 8) Applicant is adversely affected by foreign competition or training would provide company an advantage in competing in a global market;
- 9) Quality and consistency of the proposed training program;
- 10) Illinois-based company;
- 11) Level of value-added for the specific industry; and
- 12) Industries specified in annual application packages; and-
- 13) Located in a State-designated enterprise zone.

(Source: Amended at 25 Ill. Reg. 2987 effective 1-8-92001)

SUBPART C: SECONDARY AND POST-SECONDARY EDUCATION INSTITUTION APPLICANTS
(Repeated)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

Section 2650.210 Application Procedures (Repealed)

(Source: Repealed at 19 Ill. Reg. 15374, effective October 20, 1995)

SUBPART D: MULTI-COMPANY AND MEMBERSHIP TRAINING PROJECT APPLICANTS

Section 2650.310 Application Procedures

Applications will be accepted at any time. Receipt of an application does not commit the Department to award a grant or to pay any costs incurred in the preparation of an application. The applicant and any companies participating in the project shall not procure, contract for or incur costs for services or supplies prior to the signing of a written contract. The contents of an approved application shall become part of the contract awarded to the applicant. All data, material and documentation originated by an application and prepared for an application or contract shall belong exclusively to the State of Illinois and the Department. The Department shall supply interested businesses, business and industry associations, institutions of secondary or higher education, strategic business partnerships, ~~federal--job--training~~ ~~Partnership--Act--administrative--entities--or--grant--recipients~~, labor organizations or other organizations with an application upon request. Applications for grant funds shall be submitted to the Department's Office of Industrial Training in Chicago or Springfield on forms provided by the Department along with any necessary attachments which may be required.

(Source: Amended at 25 Ill. Reg. 2987, effective FEB - 9 2001)

Section 2650.320 Application Documentation

Applications shall include documentation of the following:

- a) A history and summary of the qualifications of the organization submitting the application, including any related experience in coordinating, conducting or sponsoring training programs for businesses or its membership.
- b) A description of how the companies or members will be/were selected to participate in the project and an explanation of how the common employee training needs were determined. The applicant also should indicate if a training needs assessment has been conducted.
- c) A company profile for each of the participating companies, including how long they have been in business, a description of the products manufactured or services provided, the location of their facilities ~~activities~~, the Standard Industrial Code, the current number of employees, the name of any labor organizations ~~organizations~~ representing the employees (if applicable) and a company contact and telephone number.
- d) A description of any new capital investment made by the participating

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

companies and if it relates to the proposed training program.

- e) The type of training being requested (e.g., classroom, on-the-job training).
- f) The objectives of the training.
- g) Where the training will be conducted.
- h) The names ~~names~~ of the training providers ~~providers~~.
- i) The expected measurable outcomes or benefits to the participating companies of the training program and a description of how these benefits will be measured.
- j) An Applicant Certification form which is signed and dated by the Chief Executive Officer or duly authorized representative of the applicant certifying that the applicant:
 - 1) Understands that receipt by the Department of Commerce and Community Affairs of an application for training assistance is not a guarantee or commitment by DCCA for funding;
 - 2) Agrees to submit to DCCA, on either a monthly basis or other basis agreed upon by the Department and the Grantee, information regarding training activity as required for training ~~payment reimbursement~~ under the Industrial Training Program;
 - 3) Agrees to submit to DCCA, within 60 days following the end of the grant period, a written evaluation of the results of the training experience by the participating companies. The evaluation report should be based on the measurable outcomes or benefits contained in the grant application;
 - 4) Authorizes DCCA to verify in any manner deemed appropriate any and all items indicated in this application which include information obtained through the Illinois Department of Employment Security, Consumer Credit Bureau Services and business reporting services such as Dun and Bradstreet;
 - 5) Agrees to submit to DCCA by the end of the grant period the Social Security Number of the participating employees and the Unemployment Insurance Employer Account Number of all employers participating in an approved training program;
 - 6) Agrees to notify DCCA promptly regarding any major changes in the project (e.g., layoff situations at participating companies, changes in training plans or schedules);
 - 7) Maintains that, to the best of its knowledge as of the date of the application, no employers participating in the project are in material violation of local, State or federal labor laws at any sites involved in the application, and that abnormal labor conditions such as a strike or lockout do not exist at any of these sites;
 - 8) Acknowledges that, if the application is funded, the applicant will be required to comply with the Illinois Drug Free Workplace Act, the Illinois Human Rights Act, the Americans with Disabilities Act and any future laws enacted which may be applicable to the grant;
 - 9) Maintains that all information contained in this application,

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

including the documentation, is accurate, complete and true to the best of their knowledge; and

- 10) That, if funded, all companies participating in the training and the trainees of those companies will be notified in writing that the training is partially funded by the Industrial Training Program grant administered by the Department of Commerce and Community Affairs; and:

- 11) Agrees that, upon request by the Department, it will conduct an audit of grant funds in accordance with generally accepted auditing standards and any special audit conditions that the Department deems necessary to ensure the accountability of public funds.

- k) Training Outline - which provides a descriptive picture of each training module or job classification, the requirements for selection to enter training and additional skills to be acquired through training.

- l) Training Outline Dataf/Trainees - by training module, the number of employees in training, the proposed number of hours of training requested for each trainee and the average wage rates of the trainees.

- m) Training Outline Dataf/Trainers - which details the trainers or course names, the number of instructional hours and the cost of the training.

- n) A project budget summary listing administration, internal instructor wages and fringe benefits, tuition costs, trainee wages and fringe benefits, training materials and other costs. ~~trainee--and--instructor costs~~. The budget summary shall contain the total training costs, the local/company share, other sources of training assistance and the amount requested from the Industrial Training Program.

- o) A budget narrative detailing how each line item in the budget summary was obtained and how the costs of each line item will be tracked and documented.

(Source: Amended at 25 Ill. Reg. 2987, effective FEB - 9/2001)

Section 2650.330 Application Evaluation

The Department shall screen all applications to determine if all requirements of the application package have been addressed. Complete applications shall be reviewed and evaluated comparatively by Department staff. This review and evaluation process will be completed within 75 working days after receipt of all required information. Department staff shall conduct a technical and programmatic evaluation of each application.

- a) Technical/Programmatic Evaluation Component -- Each application shall be reviewed to assure compliance with technical program requirements as detailed in Section 2650.30.

- b) Application Evaluation -- Those applications determined eligible for funding based on the evaluation process described in subsection (a)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

above shall be evaluated according to the following criteria:

- 1) Project readiness (e.g., time schedule for project initiation);
- 2) The number of participating companies and the number of employees of those participating companies who will receive training;
- 3) The cost effectiveness of the training (e.g., cost per trainee or cost per business);
- 4) New capital investment by participating companies;
- 5) How closely the training is related to the nature of the business process and the transferability of the skills obtained from the training;
- 6) Other significant benefits or impact (e.g., project is for high technology, quality and/or productivity improvements or export oriented, job retention or improving business competitiveness);
- 7) Level of performance by applicant organization and/or participating employers under previous industrial training program grant awards;
- 8) Evaluation measures utilized to determine the effectiveness of the training (e.g., the identification of quantifiable training outcome measures);
- 9) Extent to which the project demonstrates that it is employer driven; and
- 10) In making grant awards to original equipment manufacturers (OEM) for supplier training programs, the Director shall take into consideration the extent to which applications: demonstrate advanced consultation between organized labor and management; specify procedures that provide equitable access to training for existing supplier firms; and demonstrate that the proposed training will not result in the transfer of work from the OEM to supplier firms that, in turn, results in the displacement of the OEM's existing labor force. Notwithstanding these considerations, the Department may make grant awards if both labor and management support the award. The Department shall make grant awards to OEMs for supplier training only when those awards will not negatively impact the labor-management relationship. Further, the Department shall retain the responsibility to review and approve the final curricula and list of supplier firms to receive training under all grant awards. ~~Percent--of--cash--contribution--by--participating--companies--to--the--local--or--company--share--of--the--grant--(matching--contribution);~~

(Source: Amended at 25 Ill. Reg. 2987, effective FEB - 9/2001)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: International Tourism Program
- 2) Code Citation: 14 Ill. Adm. Code 555
- 3)

<u>Section Number:</u>	<u>Adoption Action:</u>
555.10	New Section
555.20	New Section
555.30	New Section
555.40	New Section
555.50	New Section
555.60	New Section
555.70	New Section
555.80	New Section
555.90	New Section
555.100	New Section
555.110	New Section
555.120	New Section
555.130	New Section
- 4) Statutory Authority: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707] (Public Act 91-0683).
- 5) Effective Date of Rules: February 9, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Has JCAR issued a Statement of Objection to these rules? No
- 10) Differences between proposal and final version: In addition to grammatical and stylistic changes, the following were also changed:
 - * In the table of contents, change "555.30 Allocation of Appropriations" to "Eligible Applicants".
 - * In the table of contents, change "555.50 Eligible Applicants" to "Form of Application".
 - * In the table of contents, change "555.60 Funding Limitations" to "555.60 Application Procedure".
 - * In the table of contents, delete "555.70 Application Cycle".

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- * In the table of contents, change "555.80 Application Documentation" to "555.70 Matching Funds".
- * In the table of contents, change "555.90 Evaluation Process" to "555.80 Computation of Time".
- * In the table of contents, change "555.100 Agreement" to "555.90 Evaluation and Selection Process".
- * In the table of contents, add the following:
 - "555.100 Allocation of Appropriations"
 - "555.110 Funding Limitation"
 - "555.120 Agreement"
 - "555.130 Administrative Requirements"
- * Change authority note to "AUTHORITY: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707] (Public Act 91-0683)".
- * In Section 555.10, change "Section 46.6d of the Code of Civil Procedure [20 ILCS 605/46.6d] authorizes" to "Section 605-707 of the International Tourism Program [20 ILCS 605/605-707] authorizes".
- * In Section 555.10, change "coordinating international tourism efforts" to "coordinating and promoting international tourism efforts".
- * In Section 555.20, add the following:

"Agreement" means a written document executed by the Grantee and the Department defining the rights and obligations with respect to the Project.
- * In Section 555.20, change "Certified local tourism and convention bureau" means the local bureau that has been designated by the Department as a grantee entitled to receive funds under the Local Tourism and Convention Bureau program [20 ILCS 605/46.6a] in accordance with 14 Ill. Adm. Code 550.35" to "Certified local tourism and convention bureau" means the local bureau recognized by the Department as a Grantee entitled to receive funds under the Section 605-705 of the International Tourism Grant Program [20 ILCS 605/605-705].
- * In Section 555.20, add the following:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

"Director" means the Director of the Department of Commerce and Community Affairs.

"Domestic" means within the boundaries of the United States.

* Delete the definition of "Economic Impact".

* In Section 555.20, add the following:

"Eligible Projects" include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with eligible programs.

* In Section 555.20, add the following:

"Grantee" means a certified local tourism and convention bureau that has been awarded a grant under the International Tourism Program.

"Illinois Trade Office" is a division of the Department that performs all functions relating to the International Tourism Program.

"Ineligible Projects" include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with eligible programs, utilities, or rent), and the purchase of alcoholic beverages.

* In Section 555.20, change part of the definition of "International" from "that is outside the continental United States, Hawaii, and Alaska" to "that is outside the United States".

* In Section 555.20, change "Match" means bureaus' local funds that do not include in-kind contributions and funds not used to match other State tourism grants" to "Matching Funds" means the Grantee's local funds equaling 50% of the total project expenditures.

* In Section 555.20, change "Project" means activities funded by the International Tourism Program" to "Project" means the work that is described by the Applicant in the Application and is approved by the Department.

* In Section 555.20, add the following:

"Total Project Cost" means all necessary and reasonable costs related to the completion of the Project, but is limited to the eligible use of funds as set forth in Section 555.40.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

* Delete the definition of "Recipient."

* In Section 555.30, change "Section 555.30 Allocation of Appropriations" to "Section 555.30 Eligible Applicants".

* Text for Section 555.30 was changed to the following:

"Illinois local tourism and convention bureaus recognized by the Department as certified under Section 605-705 of the Civil Administrative Code of Illinois [20 ILCS 605/605-705] may apply for International Tourism Program grants."

* Text for Section 555.40 was changed to the following:

"a) Projects and activities for certified local tourism and convention bureaus in Chicago include, but are not limited to, the following:

1) Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with eligible programs.

2) Ineligible projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with eligible programs, utilities, or rent), and the purchase of alcoholic beverages.

b) Projects and activities for certified local tourism and convention bureaus outside Chicago include, but are not limited to, the following:

1) Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with eligible programs.

2) Ineligible projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with eligible programs, utilities, or rent), and the purchase of alcoholic beverages."

* In Section 555.50, change "Section 555.50 Eligible Applicants" to "Section 555.50 Form of Application".

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- * Text for Section 555.50 was changed to the following:

"a) All communications relating to the Application procedures herein defined shall be sent to the International Tourism Program Manager, Illinois Trade Office of the Illinois Department of Commerce and Community Affairs, 100 W. Randolph Street, Suite 3-400, Chicago, Illinois 60601.

b) An Application shall be typed in the current approved format provided by the Department which shall be sent to an eligible Applicant upon request.

c) An Application shall contain one (1) original and three (3) copies.

d) An Application shall include supporting documents and attachments under a single cover."

- * In Section 555.60, change "Section 555.60 Funding Limitations" to "Section 555.60 Application Procedure".

- * Text for Section 555.60 was changed to the following:

"a) Applications under this program must be received no less than 60 days prior to the beginning of the Department's next Fiscal Year.

b) An Application will be considered delivered on the day it is postmarked or hand delivered to the Department's Illinois Trade Office.

c) Within ten (10) business days after the Department receives the Application, the International Tourism Program Manager of the Illinois Trade Office shall issue a receipt to the Applicant acknowledging the date on which the Department received the Application, and whether, after a brief initial review, the Application and attachments, if any, are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies therein. Thereafter, the Applicant will then have ten (10) business days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the aforementioned ten (10) business days, the Application shall be considered null and void and returned to the Applicant.

d) Within a reasonable time thereafter, the International Tourism Program Manager shall notify the Applicant that its Application

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

has been approved or rejected. If the Application has been rejected, the International Tourism Program Manager shall state the reason(s) for said determination."

- * In Section 555.70, change "Section 555.70 Application Cycle" to "Section 555.70 Matching Funds".

- * Text for Section 555.70 was changed to the following:

"a) An Applicant must provide a dollar-for-dollar match for funds received under this program. Match expenditures must equal or exceed grant funds expended. Local match shall:

- 1) Be under the control of the Applicant;
- 2) Be identified in the Applicant's grant application for the applicable fiscal year;
- 3) Be expended during the applicable grant award period;
- 4) Be supported by documentation of eligible Applicant's expenditures;

b) Sources of Eligible Match: The following monies shall be considered matching funds and may be used as a match for State grant funds:

- 1) Local hotel/motel taxes;
- 2) Membership dues;
- 3) Interest on local monies;
- 4) Cash contributions;
- 5) Federal dollars deposited directly to the grantee for tourism promotion purposes which do not require a match, and
- 6) In-kind contributions necessary to complete the project for which the cash value is easily documented and which shall include costs funded through this program. In-kind contributions shall not exceed 25 percent (25%) of the match requirements.

c) Ineligible Match: The following monies shall not be considered matching funds and may not be used as a match for State grant funds:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- 1) State or federal funds other than allowed in subsection (b)(5) above;
- 2) Monies used as match for other State or federal grants; and
- 3) Penalties, fines, late payment fees, or interest charges."

* In Section 555.80, change "Section 555.80 Application Documentation" to "Section 555.80 Computation of Time".

* Text for Section 555.80 was changed to the following:

" Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating such period of time occurs, and shall run until the end of the last day or the next business day if the last day is a Saturday, Sunday, federal or state holiday. Where the period of time is five (5) days or less, Saturday, Sunday, federal or state holiday(s) shall be excluded in the computation of time. Timeliness shall be deemed the date of postmark or the date of hand delivery.

* In Section 555.90, change "Section 555.90 Evaluation Process" to "Section 555.90 Evaluation and Selection Process".

* Text for Section 555.90 was changed to the following:

"Upon completion of the Application Procedure as described in Section 555.60, complete Applications will be evaluated by the Department's internal review committee. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international and/or domestic products or efforts as described in Section 555.40 of this Part. Thereafter, the internal review committee shall forward all eligible Applications together with its recommendations to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant."

* In Section 555.100, change, "Section 555.100 Agreement" to "Section 555.100 Allocation of Appropriations".

* Text for Section 555.100 was changed to the following: "Annual appropriations made by the General Assembly to the Department for the purpose of making grants under this Act may be used by the Department in any county in the State.

- a) The allocation of funds available for the fiscal year beginning

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

July 1 and thereafter:

- 1) 27.5% shall be used for grants to the Chicago Convention and Tourism Bureau.
- 2) 27.5% shall be used for grants to the City of Chicago92s Office of Tourism.
- 3) Of the remaining 45%, not less than \$1,000,000 shall be used for grants to certified local tourism and convention bureaus outside of Chicago.

b) If sufficient local funds cannot be raised to match allocation under subsection (a) of this Section, the appropriation may be allocated in whole or in part to any Applicant(s) able to qualify for a grant or may be used by the Department to promote international tourism to the State of Illinois."

* The following Sections were added:

"Section 555.110 Funding Limitation

The Department shall provide no more than 50 percent (50%) of the entire amount of eligible expenditures, as described in Section 555.20, for the Project.

Section 555.120 Agreement

a) When a grant has been awarded, the Grantee and the Department shall execute an Agreement. The Agreement shall be executed by the Grantee and the Director of the Department or the Director's designee on behalf of the Department. The Project must not be initiated and costs shall not be incurred prior to the time the Department approves the Application in order for the costs to be eligible for funding.

b) The Agreement shall contain substantive provisions including, but not limited to, the following:

- 1) A recitation of legal authority pursuant to which the agreement is made;
- 2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;
- 3) An identification of the grant amount;

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- 4) The condition and manner by which the Department shall pay the grant amount subject at all times to annual appropriation by the General Assembly;
- 5) The irrevocable promise of the Grantee to pay the local match of the total project cost;
- 6) A promise by the Grantee not to assign or transfer any of the rights, duties or obligations of the Grantee without the written consent of the Department;
- 7) A promise by the Grantee not to amend the Agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The Project must be completed by the completion date on the notice of grant award unless a written request for an extension is submitted no later than 30 days prior to the award completion date;
- 8) A covenant that the Grantee shall expend the grant award and any accrued interest only for the purposes of the Project as stated in the Application and approved by the Department; and
- 9) A covenant that the Grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the program. Section 555.130 Administrative Requirements

Section 555.130 Administrative Requirements

- a) Grant Close-out - In accordance with Section 4 of the Illinois Grant Fund Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditures or obligation by the Grantee shall be returned to the Department within 45 days thereof. The Grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the grant agreement.
- b) Audits - The Grantee, at its own expense, shall be responsible for securing any compliance audit for a grant award exceeding \$300,000. Such audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

- generally accepted auditing standards adopted by the AICPA (1989).
- c) Special Audits - The Department reserves the right to conduct special audits, including, but not limited to, an agency-wide audit at any time during normal working hours of the funds expended under Department grants.
 - d) Monitoring and Evaluation - Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the Grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Agreement. If the Grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the Grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.
 - e) Complaint Process - An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.
 - f) Certification - The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4."
- 11) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.
 - 12) Will these rules replace emergency rules currently in effect? No
 - 13) Are there any rules pending on this Part? No
 - 14) Summary and Purpose of the Rule: Public Act 91-0683 created the International Grant Program that provides matching funds for certified

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

Illinois convention and visitors bureaus and allows the bureaus to coordinate and promote international tourism efforts.

- 15) Information and questions regarding these adopted amendments shall be directed to:

Ms. Raya Bogard
Administrative Code Rules Manager
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph
Suite 3-400
Chicago, IL 60601
(312) 814-9593

The full text of the adopted rule begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER 1: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 555

INTERNATIONAL TOURISM PROGRAM

Section	Purpose
555.10	Definitions
555.20	Eligible Applicants
555.30	Eligible Use of Funds
555.40	Form of Application
555.50	Application Procedure
555.60	Matching Funds
555.70	Computation of Time
555.80	Evaluation and Selection Process
555.90	Allocation of Appropriations
555.100	Funding Limitation
555.110	Agreement
555.120	Administrative Requirements
555.130	

AUTHORITY: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707] (see Public Act 91-0683).

SOURCE: Emergency rule adopted at 24 Ill. Reg. 3391, effective February 14, 2000, for a maximum of 150 days; emergency expired July 12, 2000; adopted at 25 Ill. Reg. **3005**, effective Feb. 4, 2001.

Section 555.10 Purpose

Section 605-707 of the Civil Administrative Code of Illinois (International Tourism Program) [20 ILCS 605/605-707] authorizes the Department of Commerce and Community Affairs to make grants and partner with certified local tourism and convention bureaus for the purpose of coordinating and promoting international tourism efforts.

Section 555.20 Definitions

The following definitions are applicable to this Part:

"Agreement" means a written document executed by the Grantee and the Department defining the rights and obligations with respect to the Project.

"Applicant" means a certified local tourism and convention bureau.

"Application" means a written request for program funds, including

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

the required forms and attachments.

"Certified local tourism and convention bureau" means the local bureau recognized by the Department as a Grantee entitled to receive funds under the Statute.

"Department" means the Department of Commerce and Community Affairs.

"Director" means the Director of the Department of Commerce and Community Affairs.

"Domestic" means within the boundaries of the United States.

"Eligible Projects" include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.

"Fiscal year" means July 1 through June 30, the fiscal year of the State of Illinois.

"Grantee" means a certified local tourism and convention bureau that has been awarded a grant under the International Tourism Program.

"Illinois Trade Office" is a division of the Department that performs all functions relating to the International Tourism Program.

"Ineligible Projects" include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.

"International", when pertaining to a country, means any country other than the United States.

"Matching Funds" means the Grantee's local funds equaling 50% of the total project expenditures.

"Program" means the International Tourism Program.

"Project" means the work that is described by the Applicant in the Application and is approved by the Department.

"Statute" means Section 605-707 of the Civil Administrative Code of Illinois, which establishes the Program.

"Total Project Cost" means all necessary and reasonable costs related

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

to the completion of the Project, but is limited to the eligible use of funds as set forth in Section 555.40.

Section 555.30 Eligible Applicants

Illinois local tourism and convention bureaus recognized by the Department as certified under the Statute may apply for International Tourism Program grants.

Section 555.40 Eligible Use of Funds

a) Projects and activities for which grant funds can be utilized by certified local tourism and convention bureaus in Chicago include, but are not limited to, the following:

1) Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.

2) Ineligible Projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.

b) Projects and activities for which grant funds can be utilized by certified local tourism and convention bureaus outside Chicago include, but are not limited to, the following:

1) Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.

2) Ineligible Projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.

Section 555.50 Form of Application

a) All communications relating to the Application procedures defined in Section 555.60 shall be sent to the International Tourism Program Manager, Illinois Trade Office of the Illinois Department of Commerce and Community Affairs, 100 W. Randolph Street, Suite 3-400, Chicago, Illinois 60601.

b) An Application shall be typed in the current approved format provided by the Department, which shall be sent to an eligible Applicant upon request.

c) An Application shall contain 1 original and 3 copies.

d) An Application shall include supporting documents and attachments under a single cover.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

Section 555.60 Application Procedure

- a) Applications under this Program must be received no less than 60 days prior to the beginning of the Department's next fiscal year.
- b) An Application will be considered delivered on the day it is postmarked or hand delivered to the Department's Illinois Trade Office.
- c) Within 10 business days after the Department receives the Application, the International Tourism Program Manager of the Illinois Trade Office shall issue a receipt to the Applicant acknowledging the date on which the Department received the Application, and whether, after a brief initial review, the Application and attachments, if any, are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies. The Applicant will then have 10 business days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the 10 business days, the Application shall be considered null and void and returned to the Applicant.
- d) The International Tourism Program Manager shall notify the Applicant that its Application has been approved or rejected. If the Application has been rejected, the International Tourism Program Manager shall state the reasons for that determination.

Section 555.70 Matching Funds

- a) An Applicant must provide a dollar-for-dollar match for funds received under this program. Match expenditures must equal or exceed grant funds expended. Local match shall:
 - 1) Be under the control of the Applicant;
 - 2) Be identified in the Applicant's grant application for the applicable fiscal year;
 - 3) Be expended during the applicable grant award period;
 - 4) Be supported by documentation of eligible Applicant's expenditures.
- b) Sources of Eligible Match: The following monies shall be considered Matching Funds and may be used as a match for State grant funds:
 - 1) Local hotel/motel taxes;
 - 2) Membership dues;
 - 3) Interest on local monies;
 - 4) Cash contributions;
 - 5) Federal dollars deposited directly to the Grantee for tourism promotion purposes that do not require a match; and
 - 6) In-kind contributions necessary to complete the project for which the cash value is easily documented and that shall include costs funded through this program. In-kind contributions shall not exceed 25% of the match requirements.
- c) Ineligible Match: The following monies shall not be considered

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

Matching Funds and may not be used as a match for State grant funds:

- 1) State or federal funds other than allowed in subsection (b)(5) above;
- 2) Monies used as match for other State or federal grants; and
- 3) Penalties, fines, late payment fees, or interest charges.

Section 555.80 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs, and shall run until the end of the last day or the next business day if the last day is a Saturday, Sunday, federal or State holiday. When the period of time is 5 days or less, Saturday, Sunday, federal or State holidays shall be excluded in the computation of time. Timeliness shall be deemed the date of postmark or the date of hand delivery.

Section 555.90 Evaluation and Selection Process

Upon completion of the Application procedure as described in Section 555.60, complete Applications will be evaluated by the Department's internal review committee. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international and/or domestic products or efforts as described in Section 555.40 of this Part. The internal review committee shall forward all eligible Applications together with its recommendations to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.

Section 555.100 Allocation of Appropriations

Annual appropriations made by the General Assembly to the Department for the purpose of making grants under this Program may be used by the Department in any county in the State.

- a) The allocation of funds available for the fiscal year beginning July 1 and thereafter:
 - 1) 27.5% shall be used for grants to the Chicago Convention and Tourism Bureau.
 - 2) 27.5% shall be used for grants to the City of Chicago's Office of Tourism.
 - 3) Of the remaining 45%, not less than \$1,000,000 shall be used for grants to certified local tourism and convention bureaus outside of Chicago.
- b) If sufficient local funds cannot be raised to match any grant issued under this Part, the appropriation may be allocated in whole or in part to any Applicants able to qualify for a grant or may be used by the Department to promote international tourism to the State of Illinois.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

Section 555.110 Funding Limitation

The Department shall provide no more than 50% of the entire amount of eligible expenditures, as described in Section 555.40, for the project.

Section 555.120 Agreement

- a) When a grant has been awarded, the Grantee and the Department shall execute an Agreement. The Agreement shall be executed by the Grantee and the Director of the Department or the Director's designee on behalf of the Department. The Project must not be initiated and costs shall not be incurred prior to the time the Department approves the Application in order for the costs to be eligible for funding.
- b) The Agreement shall contain substantive provisions including, but not limited to, the following:

- 1) A recitation of legal authority pursuant to which the agreement is made;
- 2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;
- 3) An identification of the grant amount;
- 4) The condition and manner by which the Department shall pay the grant amount subject at all times to annual appropriation by the General Assembly;
- 5) The irrevocable promise of the Grantee to pay the local match of the total project cost;
- 6) A promise by the Grantee not to assign or transfer any of the rights, duties or obligations of the Grantee without the written consent of the Department;
- 7) A promise by the Grantee not to amend the Agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The Project must be completed by the completion date on the notice of grant award unless a written request for an extension is submitted no later than 30 days prior to the award completion date;
- 8) A covenant that the Grantee shall expend the grant award and any accrued interest only for the purposes of the project as stated in the Application and approved by the Department; and
- 9) A covenant that the Grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Program.

Section 555.130 Administrative Requirements

- a) Grant Close-out - In accordance with Section 4 of the Illinois Grant Fund Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditures or

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

obligation by the Grantee, shall be returned to the Department within 45 days after the end of the relevant period. The Grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the grant Agreement.

- b) Audits - The Grantee, at its own expense, shall be responsible for securing any compliance audit for a grant award exceeding \$300,000. Such audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311 (June 2000, no later editions are incorporated).

- c) Special Audits - The Department reserves the right to conduct special audits, including, but not limited to, an agency-wide audit, at any time during normal working hours of the funds expended under Department grants.

- d) Monitoring and Evaluation - Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department.

Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Agreement. If the Grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the Grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.

- e) Complaint Process - An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.

- f) Certification - The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

1) Heading of the Part: Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds

2) Code Citation: 20 Ill. Adm. Code 1286

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1286.10	New Section
1286.20	New Section
1286.30	New Section
1286.40	New Section
1286.50	New Section
1286.60	New Section
1286.70	New Section
1286.80	New Section
1286.90	New Section
1286.100	New Section
1286.110	New Section
1286.120	New Section
1286.130	New Section
1286.140	New Section
1286.150	New Section
1286.160	New Section
1286.170	New Section
1286.180	New Section
1286.200	New Section
1286.210	New Section
1286.220	New Section
1286.230	New Section
1286.240	New Section
1286.250	New Section
1286.300	New Section
1286.310	New Section
1286.320	New Section
1286.330	New Section
1286.340	New Section
1286.350	New Section

4) Statutory Authority: Authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]. Implementing and authorized by Section 6-106.1a of the Illinois Vehicle Code [625 ILCS 5/6-106.1a]. Implementing and authorized by Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2]. Implementing Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5]. Implementing Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6]. Implementing and authorized by Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8]. Implementing Section 5-7.5 of the Snowmobile Registration and Safety Act [625 ILCS 40/5-7.5]. Implementing Section 5-16b of the Boat Registration and Safety Act [625 ILCS 45/5-16b]. Implementing and

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

authorized by Section 6-1 of the Boat Registration and Safety Act [625 ILCS 45/6-1].

5) Effective Date of Rules: February 1, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in *Illinois Register*: 24 Ill. Reg. 15916, October 27, 2000

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Editing and formatting changes recommended by JCAR were made. Various technical changes and clarifications were made which were not substantive in nature. Following is a summary of more substantive changes made within this Part.

In Section 1286.10, added definition for "Accuracy Check Record".

In Section 1286.10, added "Park District" within the definition of "Agency".

In Section 1286.10, revised the definition of "Alcohol Concentration" in order to remove the statutory reference.

In Section 1286.10, added definitions for "Approved Evidentiary Instrument", "Approved PBT", "Blood Alcohol Concentration" or "BAC", and "Breath Alcohol Concentration" or "BrAC".

In Section 1286.10, revised the definition of "Breath Analysis Operator" in order to reflect additional functions of the BAO.

In Section 1286.10, revised the definition of "Breath Analysis Technician" in order to include the authorization to create accuracy check records and service records.

In Section 1286.10, revised the definition of "Central Repository" for better clarity.

In Section 1286.10, deleted definition of "Certified Reference".

In Section 1286.10, added "when a 20-minute observation period is

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

commenced" within the definition of "Foreign Substance".

In Section 1286.10, revised the definition of "Internal Memory" for better clarity.

In Section 1286.10, revised the definition of "Logbook" for better clarity.

In Section 1286.10, added definition for "NHTSA's List".

In Section 1286.10, added definitions for "Reference Sample", "Service Record", and "Subject Test Record".

In Section 1286.10, deleted definition for "W/V".

Added Section 1286.60 Department Notification.

Added Section 1286.70 Maintenance of Records for Approved Evidentiary Instruments.

Added Section 1286.80 Approved Evidentiary Instrument and Logbook Availability.

Added Section 1286.90 Reporting Laboratory Results.

In Section 1286.100 Licensing BAOs, restructured text within section for better clarity.

Changed name of Section 1286.110 from "Requirements for Re-license" to "Renewal of BAO License". Restructured text within section and added information regarding license renewal course.

In Section 1286.120 Revocation and Denial of BAO License, restructured text within section and added additional grounds for license revocation and denial.

In Section 1286.130 Authorization of BATs, restructured text within section and added information regarding renewal of BAT authorization.

In Section 1286.150 Accrediting BAIs, restructured text within section and added information regarding renewal of BAI accreditation.

Changed Section 1286.200 from "Approved Instruments" to "Equipment Approval and Accuracy". Added new text on procedures for establishing the accuracy for breath testing instruments.

Changed Section 1286.210 from "Verifying Instruments" to "Evidentiary Instrument Approval". Text from old Section 1286.200 Approved Instruments

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

moved to this section.

Changed Section 1286.220 from "Checking Instruments for Accuracy" to "Verifying Approved Evidentiary Instruments". Text from old Section 1286.210 Verifying Instruments moved to this section. Included additional information regarding verification in subsections (d) and (e).

Changed Section 1286.230 from "Preliminary Breath Test Devices (PBTs)" to "Checking Approved Evidentiary Instruments for Accuracy". Text from old Section 1286.220 Checking Instruments for Accuracy moved to this section. Changed performance of accuracy checks from bimonthly to at least every 62 days.

Added Section 1286.240 PBT Approval. Text from old Section 1286.230 Preliminary Breath Test Devices (PBTs) moved to this section. Added information on PBT readings.

Added Section 1286.250 Checking Approved PBTs for Accuracy.

Changed name of Section 1286.310 from "Instrument Operation" to "Approved Evidentiary Instrument Operation". Revised subsection (b) to add more details for obtaining a breath sample.

Changed Section 1286.320 to Withdrawal of Blood for Chemical Analysis of Alcohol, Drugs or Intoxicating Compounds. Previous information on maintenance of records moved to Section 1286.70.

Changed Section 1286.330 to Urine Collection for Determining the Presence of Drugs or Intoxicating Compounds Other than Alcohol. Previous information on withdrawal of blood for chemical analysis moved to Section 1286.320.

Changed Section 1286.340 to Urine Collection for Determining the Concentration of Urine Alcohol. Previous information on urine collection for determining the presence of drugs moved to Section 1286.330.

Changed 1286.350 to Operation of PBTs. Previous information on urine collection for determining the concentration of urine alcohol moved to Section 1286.340.

Deleted Section 1286.360. Previous information on reporting laboratory results moved to Section 1286.90.

Deleted Section 1286.370. Previous information on operation of PBTs moved to Section 1286.350.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF STATE POLICE
NOTICE OF ADOPTED RULES

- 13) Will this rule replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking regulates the testing of bodily fluids with respect to DUI and other related offenses. This Part will replace and supersede the administrative rules previously under the authority of the Department of Public Health as required by Public Act 91-0828.
- 16) Information and questions regarding these adopted rules shall be directed to:
- Lieutenant Michael D. McIntosh
Deputy Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, IL 62794-9461
Telephone: (217) 524-0346
Fax: (217) 524-5743

The full text of the adopted rules begins on the next page:

DEPARTMENT OF STATE POLICE
NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1286
TESTING OF BREATH, BLOOD AND URINE
FOR ALCOHOL, OTHER DRUGS, AND INTOXICATING COMPOUNDS

SUBPART A: GENERAL PROVISIONS

Section	Definitions
1286.10	Grievances
1286.20	Additional Testing
1286.30	Conversion of a Blood Serum or Blood Plasma Alcohol Concentration to a Whole Blood Equivalent
1286.40	Passive Sensors
1286.50	Department Notification
1286.60	Maintenance of Records for Approved Evidentiary Instruments
1286.70	Approved Evidentiary Instrument and Logbook Availability
1286.80	Reporting Laboratory Results
1286.90	

SUBPART B: APPROVAL PROCEDURES FOR PERSONS AND LABORATORIES TO PERFORM SPECIFIC FUNCTIONS

Section	Licensing BAOs
1286.100	Renewal of BAO License
1286.110	Revocation and Denial of BAO License
1286.120	Authorization of BATs
1286.130	Revocation and Denial of BAT Authorization
1286.140	Accrediting BAIs
1286.150	Revocation and Denial of BAI Accreditation
1286.160	Certification of Laboratories and Laboratory Technicians
1286.170	Revocation and Denial of Laboratory Certification
1286.180	

SUBPART C: EQUIPMENT

Section	Equipment Approval and Accuracy
1286.200	Evidentiary Instrument Approval
1286.210	Verifying Approved Evidentiary Instruments
1286.220	Checking Approved Evidentiary Instruments for Accuracy
1286.230	PBT Approval
1286.240	Checking Approved PBTs for Accuracy
1286.250	

SUBPART D: SAMPLING PROCEDURES

Section

DEPARTMENT OF STATE POLICE
NOTICE OF ADOPTED RULES

ILCS 5/6-106.1a], Section 11-501 of the Illinois Vehicle Code [625 ILCS 5/11-501], Section 11-501.1 of the Illinois Vehicle Code [625 ILCS 5/11-501.1], Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2], Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6], Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8], and Sections that cross-reference Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2].

"Approved PBT" means an instrument approved for use by the Department either to obtain a BrAC pursuant to a preliminary breath screening test as described under Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5], Section 5-7.5 of the Snowmobile Registration and Safety Act [625 ILCS 40/5-16b], Section 5-16b of the Boat Registration and Safety Act [625 ILCS 45/5-16b], and Sections that cross-reference Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5] or to obtain a BrAC pursuant to a breath test as described under Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6], and Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8].

"Blood Alcohol Concentration" or "BAC" means grams of alcohol per 100 milliliters of whole blood.

"Breath Alcohol Concentration" or "BrAC" means grams of alcohol per 210 liters of breath (Section 11-501.2(a)5 of the Illinois Vehicle Code [625 ILCS 5/11-501.2(a)5]).

"Breakdown" means a malfunction that affects the analytical performance of the instrument or its ability to quantitate a BrAC.

"Breath Analysis Instructor" or "BAI" means an individual who is accredited by the Department to instruct breath analysis instrument operations and to train and administer licensing examinations to BAOs.

"Breath Analysis Operator" or "BAO" means an individual licensed by the Department to operate approved evidentiary instruments and to create subject test records. BAOs can print local reports, perform basic maintenance (i.e., replace a fuse), and make minor adjustments (i.e., correct the date/time).

"Breath Analysis Reading" means the numeric value of the first two digits to the right of the decimal point of a BrAC analysis as displayed, printed, or recorded by an instrument.

"Breath Analysis Technician" or "BAT" means an individual who is authorized by the Department to install, examine, certify, verify, repair, maintain, check the accuracy of approved evidentiary instruments, and create accuracy check records and service records.

DEPARTMENT OF STATE POLICE
NOTICE OF ADOPTED RULES

1286.300 General Sampling Protocol
1286.310 Approved Evidentiary Instrument Operation
1286.320 Withdrawal of Blood for Chemical Analysis of Alcohol, Drugs or Intoxicating Compounds
1286.330 Urine Collection for Determining the Presence of Drugs or Intoxicating Compounds Other than Alcohol
1286.340 Urine Collection for Determining the Concentration of Urine Alcohol
1286.350 Operation of PBTs

AUTHORITY: Authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605-15]. Implementing and authorized by Section 6-106.1a of the Illinois Vehicle Code [625 ILCS 5/6-106.1a]. Implementing and authorized by Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2]. Implementing Section 11-501.5 of the Illinois Vehicle Code [625 ILCS 5/11-501.5]. Implementing Section 11-501.6 of the Illinois Vehicle Code [625 ILCS 5/11-501.6]. Implementing and authorized by Section 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/11-501.8]. Implementing Section 5-7.5 of the Snowmobile Registration and Safety Act [625 ILCS 40/5-7.5]. Implementing Section 5-16b of the Boat Registration and Safety Act [625 ILCS 45/5-16b]. Implementing and authorized by Section 6-1 of the Boat Registration and Safety Act [625 ILCS 45/6-1].

SOURCE: Adopted at 25 Ill. Reg. **3023** effective FEB - 1-2007

SUBPART A: GENERAL PROVISIONS

Section 1286.10 Definitions

"Accuracy Check Record" means the data recorded by a BAT when an accuracy check is performed on an approved evidentiary instrument. Accuracy test records will include at least the type of instrument, instrument serial number, test date, test time, reference sample value, BAT, and the readings of the two accuracy check tests.

"Agency" means a Municipal, Park District, County, State or Federal law enforcement agency, involved in the use of approved evidentiary instruments or PBTs.

"Alcohol" means ethanol, commonly referred to as grain alcohol, ethyl alcohol, alcoholic beverage, or alcoholic liquor.

"Alcohol Concentration" means weight in grams of alcohol in a specified volume of blood, breath, or urine.

"Approved Evidentiary Instrument" means an instrument approved for use by the Department to obtain a BrAC pursuant to a breath test as described under Section 6-106.1a of the Illinois Vehicle Code [625

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

"Central Repository" means the collection and maintenance by the Department of business records, maintained by an agency in the normal course of business, of subject test records, accuracy check records, and service records.

"Certified Paramedic" means an individual licensed by the Illinois Department of Public Health as an Emergency Medical Technician (Intermediate) or Emergency Medical Technician (Paramedic) acting under the direction of a licensed physician as a phlebotomist.

"Department" means the Illinois Department of State Police.

"Director" means the Director of State Police.

"Foreign Substance" means any substance not in the subject's body when a 20-minute observation period is commenced, excluding a substance introduced due to normal breathing.

"Ingested" means eaten, chewed, swallowed or consumed by mouth in any other manner; inhaled, sniffed, snorted, sprayed, or introduced into the breathing passages in any other manner; injected or introduced into the body in any manner.

"Instrument" means any item or combination of items of equipment used to quantitate a breath analysis reading.

"Internal Memory" means the digital storage medium that is part of an approved evidentiary instrument that registers subject test records, accuracy check records, and service records.

"License" means a permit issued as evidence by the Department to an individual as proof of his or her authority and competence as a BAO, BAT, or BAI.

"Logbook" means a business record, maintained by the agency in the normal course of business, of subject test records, accuracy check records, and service records.

"Malfunction" means failure of an instrument to function properly.

"NHTSA's List" means the Conforming Products List of Evidential Breath Measuring Instruments produced by the National Highway Traffic Safety Administration, United States Department of Transportation.

"Other Qualified Person" means a person trained and employed by a licensed medical facility or affiliate acting under the direction of a licensed physician, as a phlebotomist, regardless of job title.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

"Passive Sensor" means a unit that monitors ambient air for the presence of alcohol for an investigative purpose.

"Phlebotomist" means a person who uses venipuncture to collect blood from another individual.

"Preliminary Breath Test Device" or "PBT" means a portable device used to quantitate a breath analysis reading.

"Reference Sample" means either a solution for use in a breath simulator or a dry gas mixture for the purpose of instrument certification, verification, accuracy checks, and/or calibration.

"Service Record" means the data recorded by a BAT when an approved evidentiary instrument is verified. Service records will include at least the type of instrument, instrument serial number, date of service, time of service, service issue reported, service issue found, probable cause of service issue, corrective action taken, and BAT. Service records do not include information other than that which can be recorded in instrument memory or the central repository (i.e., a document such as a bill for repairs of an approved evidentiary instrument is not a service record).

"Subject Test Record" means the data recorded by a BAO when a subject is tested with an approved evidentiary instrument. Subject test records will include at least the type of instrument, instrument serial number, name of individual tested, test date, test time, breath analysis reading, and BAO.

"Urine Alcohol Concentration" or "UAC" means the number of grams of alcohol per 67 milliliters of urine (Section 6-500(c) of the Illinois Vehicle Code [625 ILCS 5/6-500(c)]).

"Whole Blood Equivalent" means the conversion of a blood serum or blood plasma alcohol concentration to an approximate BAC.

Section 1286.20 Grievances

Aggrieved persons who wish to contest the Department's actions with respect to their BAO license, BAT authorization, BAI accreditation, or laboratory certification shall follow general hearing procedures outlined in 20 Ill. Adm. Code 1200.

Section 1286.30 Additional Testing

Should a subject choose to undergo additional chemical analysis, the person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his/her own choosing administer a chemical

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

test or tests in addition to any administered at the direction of a law enforcement officer (Section 11-501.2(a)3 of the Illinois Vehicle Code).

- a) The additional tests must be conducted in a manner as close as practicable to the procedures in this Part.
- b) Persons wishing to have additional tests administered shall make their own arrangements for such tests.
- c) Any additional testing conducted pursuant to this Section shall be at the subject's expense and subsequent to the posting of bond.

Section 1286.40 Conversion of a Blood Serum or Blood Plasma Alcohol Concentration to a Whole Blood Equivalent

The blood serum or blood plasma alcohol concentration result will be divided by 1.18 to obtain a whole blood equivalent.

Section 1286.50 Passive Sensors

Passive sensors are not regulated by the Department.

Section 1286.60 Department Notification

- a) Agencies shall notify the Department:
 - 1) If an approved evidentiary instrument needs service.
 - 2) If the agency receives an approved evidentiary instrument or PBT from an entity other than the manufacturer.
- b) BAOs shall notify the Department:
 - 1) If the BAO leaves the employment of the agency that employed the BAO.
 - 2) If the BAO changes his or her name.
- c) Certified laboratories shall notify the Department of any change in accreditation status.
- d) Any manufacturer who sells an approved evidentiary instrument or a PBT to an agency in Illinois shall notify the Department of all such sales, listing the name of the agency, the date, the make, and serial number of the instrument.

Section 1286.70 Maintenance of Records for Approved Evidentiary Instruments

Subject test records, accuracy check records, and service records will be maintained for each approved evidentiary instrument.

- a) Subject test records and accuracy check records must be maintained in a logbook, unless the agency has obtained written permission from the Department to maintain the records for a particular instrument in the instrument memory and/or the central repository.
- b) Logbook entries will be made in the logbook as contemporaneous as reasonably practicable to the time the procedure was performed.
- c) Malfunctions that are not breakdowns (non-analytical failures such as battery expiration, incorrect time/date, printer problems, etc.) will

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- not be documented.
- d) Permission to maintain records in instrument memory can only be obtained for instruments equipped with sufficient internal memory to store 100 subject test records and that can download stored information to the central repository.
 - e) All records removed from the internal memory of an instrument shall be downloaded to the central repository.
 - f) The central repository will maintain instrument records for not less than five years from the date downloaded.

Section 1286.80 Approved Evidentiary Instrument and Logbook Availability

- a) All agencies shall have their approved evidentiary instruments available for examination by a BAT.
- b) All agencies shall have the logbooks for their approved evidentiary instruments available for examination by a BAT.

Section 1286.90 Reporting Laboratory Results

- a) Laboratories shall return the original analysis report of the blood or urine sample to the submitting agency only.
- b) Laboratories shall retain a duplicate copy of the analysis report in the testing laboratory for two years.
- c) Laboratories shall submit to the Department all blood and/or urine test results for alcohol concentration or the presence of other drugs or intoxicating compounds along with the age and sex of the individuals on a quarterly basis. When practicable, results are to be submitted to the Department's Breath Alcohol Training Section in an electronic data transfer method approved by the Department.

SUBPART B: APPROVAL PROCEDURES FOR PERSONS AND LABORATORIES TO PERFORM SPECIFIC FUNCTIONS

Section 1286.100 Licensing BAOs

The Director or his/her designee is authorized to license persons to be BAOs subject to the requirements of this Section. BAOs are licensed to perform all appropriate BAO functions described in this Part.

- a) To be eligible to be a BAO, the individual must be employed by an agency.
- b) Under the direction and control of a BAI, BAO candidates must:
 - 1) Complete a training curriculum approved by the Department that includes a minimum of 32 hours of instruction, which includes the following:
 - A) Presentation and discussion of the psychological, physiological, and pharmacological effects of alcohol in the human body;
 - B) Demonstration and discussion of instruments and the

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

analytical processes used to measure BrAC;

- C) Practical application and demonstration in the use of an approved evidentiary instrument; and
 - D) Discussion of current DUI issues, the administrative rules, and case law.
- 2) Pass the following:
 - A) The standardized written examination for Breath Analysis Operator provided by the Department with a minimum score of 70 percent.
 - B) A proficiency examination where the candidate operates approved evidentiary instruments.
 - C) A license shall be valid for a period of three years from the printed date of issuance. If the license is not renewed as provided for in Section 1286.110, it shall terminate three years from the printed date of issuance.
 - d) Licensing classes will be held in locations approved by the Department based upon appropriate lighting, space, heating, and air conditioning conditions.
 - e) Persons licensed as BAOs on December 31, 2000 by the Department of Public Health will be deemed to be licensed under this Part until expiration of their Department of Public Health license.

Section 1286.110 Renewal of BAO License

The Director or his/her designee is authorized to renew BAO licenses subject to the requirements of this Section. An individual with a renewed BAO license is a BAO. A renewed BAO license shall be subject to the same terms and conditions as an original BAO license.

- a) BAO license renewal candidates must either successfully attend the renewal course and pass the written renewal examination or successfully complete the computer-based training course.
 - 1) Under the direction and control of a BAI, BAO renewal candidates attending the renewal course must:
 - A) Complete a training curriculum approved by the Department that includes the following:
 - i) Review of theory and practice with an approved evidentiary instrument;
 - ii) Review of administrative rules as contained in this Part; and
 - iii) Review of current and related problems in the field.
 - B) Pass the following:
 - i) The standardized written examination for Breath Analysis Operator provided by the Department with a minimum score of 70 percent; and
 - ii) A proficiency examination where the candidate operates an approved evidentiary instrument.
- 2) The computer-based BAO license renewal course will:
 - A) Review subject matter similar to the BAO classroom

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

instruction;

- B) Provide a practical examination that the BAO license renewal candidate must pass; and
 - C) Provide an objective examination that the BAO license renewal candidate must pass with a minimum score of 70 percent.
- b) A BAO license that has either been revoked or been expired for more than one year cannot be renewed. To become licensed again, the individual must complete the initial licensure course.
 - c) The Department will designate sites and dates for renewal courses.
 - d) Renewal courses will be held in locations approved by the Department based upon appropriate lighting, space, heating, and air conditioning conditions.
 - e) The renewal of a BAO license issued by the Department of Public Health will be conducted as if the Department of Public Health license was a BAO license issued under this Part.

Section 1286.120 Revocation and Denial of BAO License

The Director or his/her designee may revoke a BAO license or deny BAO licensing. Grounds for BAO license revocation and denial can be, but are not limited to:

- a) Misuse of an instrument by the BAO in such a way that he or she violated State law or this Part.
- b) Unauthorized testing of the analytical system of an instrument.
- c) Unauthorized attempts to access instrument memory.
- d) Failure to comply with Section 1286.100.
- e) Failure to notify the Department the BAO has changed his or her name from what it was when the license was issued.
- f) Failure to notify the Department the BAO is no longer employed by the agency that employed the BAO.
- g) Failure to comply with Department direction with regard to correcting the BAO license information subsequent to a change in employment or name.
- h) Relocating approved evidentiary instruments without Department approval.
- i) Anything deemed by the Director or his/her designee not in the best interest of the program.

Section 1286.130 Authorization of BATs

The Director or his/her designee is authorized to authorize persons to be BATs subject to the requirements of this Section. BATs are authorized to perform all appropriate BAT functions described in this Part.

- a) BATs must be BAOs and meet all BAO licensing requirements.
- b) The candidate must display knowledge and understanding through specialized training in all of the following areas:
 - 1) Psychological, physiological, and pharmacological effects of

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

alcohol in the human body;
 2) Proficiency on all approved evidentiary instruments and the analytical processes used to measure BrAC;
 3) Maintenance, calibration, and repair procedures on all approved evidentiary instruments; and
 4) Knowledge of current DUI issues, the administrative rules, and case law.

c) Under the direction and control of the Director or his/her designee, BAT candidates must pass a proficiency examination for each approved evidentiary instrument.

d) A BAT's authorization period coincides with his or her BAO license term. The Director or his/her designee will evaluate the appropriateness of renewing the BAT authorization when the BAO license is renewed. Other than keeping their BAO license current, BATs are not required to retake the examination in subsection (c) of this Section to retain their authorization as a BAT.

e) The Department will maintain a list of authorized BATs.

f) A person certified as a BAT by the Department of Public Health on December 31, 2000 is deemed authorized as a BAT under this Part until December 31, 2003 or until his or her BAO license expires, whichever is later.

Section 1286.140 Revocation and Denial of BAT Authorization

The Director or his/her designee may revoke or deny authorization to a BAT. Grounds for revocation or denial of BAT authorization can be, but are not limited to:

- a) Any grounds for revocation set forth in Section 1286.120.
- b) Failure to comply with Section 1286.130.
- c) Anything deemed by the Director or designee not in the best interest of the program.

Section 1286.150 Accrediting BAIs

The Director or his/her designee is authorized to accredit persons to be BAIs subject to the requirements of this Section. BAIs are accredited to perform all appropriate BAI functions described in this Part.

- a) The BAIs must be BAOs and meet all BAO licensing requirements.
- b) The candidate must display knowledge and understanding through specialized training in all of the following areas:

- 1) Psychological, physiological, and pharmacological effects of alcohol in the human body;
- 2) Proficiency on all approved evidentiary instruments and the analytical processes used to measure BrAC;
- 3) Maintenance, calibration, and repair procedures on all approved evidentiary instruments; and
- 4) Knowledge of current DUI issues, the administrative rules, and case law.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

c) Under the direction and control of the Director or his/her designee, BAI candidates must pass the following:

- 1) The written breath analysis operator's examination with a minimum score of 100 percent;
- 2) The written breath analysis instructor's examination with a minimum score of 90 percent; and
- 3) A proficiency examination for each approved evidentiary instrument.

d) A BAI's accreditation period coincides with his or her BAO license term. The Director or his/her designee will evaluate the appropriateness of renewing the BAI accreditation when the BAO license is renewed. Other than keeping their BAO license current, BAIs are not required to retake the examinations in subsection (c) to retain their accreditation.

e) The Department will maintain a list of accredited BAIs.

f) A person certified as a BAI by the Department of Public Health on December 31, 2000 is deemed accredited as a BAI under this Part until December 31, 2003 or until his or her BAO license expires, whichever is later.

Section 1286.160 Revocation and Denial of BAI Accreditation

The Director or his/her designee may revoke or deny accreditation to a BAI. Grounds for revocation or denial of BAI accrediting can be, but are not limited to:

- a) Any grounds for revocation set forth in Section 1286.120.
- b) Failure to comply with Section 1286.150.
- c) Anything deemed by the Director or designee not in the best interest of the program.

Section 1286.170 Certification of Laboratories and Laboratory Technicians

The Director or his/her designee is authorized to certify laboratories and laboratory technicians subject to the requirements of this Section.

- a) Only laboratories that employ technicians who work under the supervision of a pathologist, toxicologist, or other person who has at least five years experience in the specialty of analytical chemistry may be deemed qualified to detect and/or quantitate alcohol and/or other drugs in human biological fluids will be certified by the Department. The Laboratory Director shall be responsible for the accuracy of all laboratory testing performed in the laboratory. The following conditions must be met by laboratories:

- 1) Prior to initial laboratory certification, and at least biannually thereafter, the Department shall request the demonstration of proficiency in the performance of the tests by the laboratory through the satisfactory examination of specimens by participation in a program of proficiency testing conducted by an agency or agencies approved by the Department.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- A) The Laboratory Director will advise the Department of the proficiency testing program in which it is participating and the program's standards and testing protocols. The Department will review the information and determine acceptability.
- B) The laboratory will direct the proficiency testing agency to forward a copy of the laboratory's testing results and evaluations to the Department after each testing cycle.
- 2) A candidate for certification under this Part shall furnish evidence of competent supervision by a person who meets the qualifications set forth in this Section.
- b) Upon evidence that a laboratory has complied with this Section, a letter of certification listing those technicians certified to perform appropriate tests shall be issued, and such certification shall be valid for two calendar years. It may be renewed upon submission by the holder of the certification of evidence that the laboratory continues to perform analyses for alcohol concentration and/or other drug content on human biological fluids under the supervision of a person meeting the qualifications set forth in this Section and upon the Department's determination that the laboratory is complying with subsection (a)(1) of this Section.
- c) Laboratories and technicians certified by the Department of Public Health on December 31, 2000 shall be deemed certified under this Part until December 31, 2001.

Section 1286.180 Revocation and Denial of Laboratory Certification

The Director or his/her designee may revoke or deny certification of a laboratory or a laboratory technician. Grounds for revocation or denial of laboratory certification can be, but are not limited to:

- a) Change in laboratory accreditation status.
- b) Failure to comply with Section 1286.170.
- c) Anything deemed by the Director or his/her designee not in the best interest of the program.

SUBPART C: EQUIPMENT

Section 1286.200 Equipment Approval and Accuracy

The procedures contained in this Subpart are the only procedures for establishing the accuracy of breath testing instruments. A rebuttable presumption exists that an instrument was accurate at the particular time a subject test was performed when the following four conditions are met.

- a) The instrument was approved under this Subpart at the time of the subject test.
- b) The performance of the instrument was within the accuracy tolerance described in this Subpart according to the last accuracy check or verification (whichever is later) prior to the subject test.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- c) No accuracy check has been performed subsequent to the subject test or the performance of the instrument on the next accuracy check after the subject test was within the accuracy tolerance described in this Subpart.
- d) Accuracy checks or verifications have been done in a timely manner, meaning:
- 1) Not more than 62 days have passed since the last accuracy check or verification (whichever is later) prior to the subject test; or
 - 2) The period of time between the last accuracy check or verification (whichever is later) prior to the next subject test, and the accuracy check after the subject test, is not more than 62 days.

Section 1286.210 Evidentiary Instrument Approval

Approved evidentiary instruments shall print and/or display a breath analysis reading. Approved evidentiary instruments can print or display two or three digits to the right of the decimal point. Whether the approved evidentiary instrument prints or displays two or three digits to the right of the decimal point, the breath analysis reading consists of the first two digits to the right of the decimal point.

- a) The Department shall only approve evidentiary instruments enumerated in NHTSA's list. The Department approves the following instruments for obtaining breath analysis readings:

- 1) Intoxilyzer 5000, Series 64 and 66 only, manufactured by CMI, Inc.
 - 2) Intox EC-IR, all models, manufactured by Intoximeters, Inc.
 - 3) RBT IV, all models, manufactured by Intoximeters, Inc.
- b) Should an instrument in subsection (a) be removed from NHTSA's list, the instrument will remain an approved evidentiary instrument under this Part for a period of 18 months subsequent to removal or until this Section is amended.

- c) The Department may temporarily approve additional evidential instrumentation from NHTSA's list after conducting a program suitability evaluation. The Department shall maintain a list of evidentiary instruments temporarily approved for breath testing in addition to those provided in subsection (a). Evidentiary instruments may be temporarily approved for a maximum period of 18 months. The list of temporarily approved evidentiary instruments, if any, shall be available to the public.

Section 1286.220 Verifying Approved Evidentiary Instruments

The accuracy of all approved evidentiary instruments used to obtain a breath analysis reading from a subject shall be verified by a BAT.

- a) Verification is required:
- 1) Prior to being placed in operation;

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- 2) After a breakdown has been repaired; and/or
- 3) When an approved evidentiary instrument fails to quantitate the two required accuracy check tests within plus or minus 0.01 BrAC.
- b) Approved evidentiary instruments must quantitate the reference sample within plus or minus 0.01 BrAC to be certified accurate. Accuracy beyond the second digit to the right of the decimal point is not required.
- c) Approved evidentiary instruments shall be adjusted by a BAT when necessary to cause the instruments to quantitate the reference sample within plus or minus 0.01 BrAC.
- d) The verification results shall be recorded in the instrument's logbook or internal memory, or in the central repository.
- e) Each approved evidentiary instrument certified accurate by the Department of Public Health on December 31, 2000 is deemed verified under this Part until the instrument breaks down or it fails to quantitate the two required accuracy check tests within plus or minus 0.01 BrAC.

Section 1286.230 Checking Approved Evidentiary Instruments for Accuracy

To ensure the continued accuracy of approved evidentiary instruments, a BAT shall perform accuracy checks.

- a) Checks shall be performed at least once every 62 days.
- b) Checks shall consist of at least two tests of the instrument in which the instrument quantitates a reference sample.
- c) Approved evidentiary instruments must quantitate a reference sample within plus or minus 0.01 BrAC. Accuracy beyond the second digit to the right of the decimal point is not required.
- d) The accuracy check results shall be recorded in the instrument's logbook or internal memory, or in the central repository.
- e) Each approved evidentiary instrument certified accurate by the Department of Public Health on December 31, 2000 is deemed accurate under this Part until February 28, 2001.

Section 1286.240 PBT Approval

PBTs shall display a breath analysis reading. PBTs can display two or three digits to the right of the decimal point. Whether the PBT displays two or three digits to the right of the decimal point, the breath analysis reading consists of the first two digits to the right of the decimal point.

- a) The Department shall only approve PBTs enumerated in NHTSA's list. The Department approves the following PBTs for obtaining breath analysis readings:
 - 1) S-D2, manufactured by CMI, Inc.
 - 2) Alcosensor III, manufactured by Intoximeters, Inc.
 - 3) Alcosensor IV, manufactured by Intoximeters, Inc.
- b) The Department may temporarily approve additional PBTs from NHTSA's list after conducting a program suitability evaluation. The Department

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

shall maintain a list of PBTs temporarily approved for screening instrument testing in addition to those provided above. PBTs may be temporarily approved for a maximum period of 18 months. The list of temporarily approved PBTs, if any, shall be available to the public.

Section 1286.250 Checking Approved PBTs for Accuracy

PBTs shall be checked for accuracy by a technician or an individual specially trained to perform PBT accuracy checks at least once every 93 days. To be accurate, the PBT must quantitate a reference sample within plus or minus 0.01 BrAC. Accuracy beyond the second digit to the right of the decimal point is not required.

SUBPART D: SAMPLING PROCEDURES

Section 1286.300 General Sampling Protocol

The arresting officer has discretion to determine whether a subject will be required to submit a breath, blood, and/or urine sample for testing.

- a) If the subject has been in a vehicle crash and must be treated or is currently being treated by a physician licensed to practice medicine for injuries sustained in the crash, the arresting officer will consult with the treating physician to determine how best to test the subject without unreasonably jeopardizing the subject's treatment.
- b) The arresting officer or BAO shall deem a subject who fails to submit to a requested test or additional testing to have refused testing.
- c) When a subject has submitted an insufficient sample or otherwise failed to adequately complete a requested test or tests, the arresting officer or BAO has discretion to determine if the subject:
 - 1) has refused testing; or
 - 2) will be required to undergo additional testing.
- d) The procedures contained in this Subpart are the only procedures required to obtain a valid breath, blood, and/or urine sample. There are no additional sampling procedures.

Section 1286.310 Approved Evidentiary Instrument Operation

The following procedures shall be used to obtain a breath sample to determine a subject's BrAC with an approved evidentiary instrument:

- a) Prior to obtaining a breath analysis reading from a subject, the BAO or another agency employee shall continuously observe the subject for at least 20 minutes.
 - 1) During the 20 minute observation period the subject shall be deprived of alcohol and foreign substances and shall not have regurgitated or vomited.
 - 2) If the subject regurgitates or vomits during the observation (deprivation) period, the process shall be started over by having the individual rinse the oral cavity with water.

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- 3) If the individual continues to regurgitate or vomit, alternate testing shall be considered.
- b) After starting the instrument's breath test sequence, the BAO will obey instrument prompts. When prompted by the instrument, the BAO will shall direct the subject to blow into the instrument. The subject shall be directed to keep blowing into the instrument until he or she has submitted an adequate breath sample. Once an adequate breath sample is collected, the instrument shall complete the test cycle and print or display the breath analysis reading.
- c) A breath test shall consist of only one breath analysis reading, based on the instrument's internal operational calculations.
 - 1) A complete and valid breath analysis reading is denoted by at least one air blank, one subject breath test reading, and no breakdown message.
 - 2) Messages such as "refusal", "insufficient sample", "inadequate sample", etc., are not breakdowns or malfunctions. These messages indicate the subject's failure to adequately complete a requested test or tests.

Section 1286.320 Withdrawal of Blood for Chemical Analysis of Alcohol, Drugs or Intoxicating Compounds

The following procedures shall be used to obtain a blood sample from a subject to determine the alcohol concentration, or presence of other drugs or intoxicating compounds:

- a) The blood sample shall be collected in the presence of the arresting officer, another law enforcement officer, or an agency employee who can authenticate the sample.
- b) *The blood sample shall be collected by a physician authorized to practice medicine, a registered nurse, a trained phlebotomist or certified paramedic, or other qualified person acting under the direction of a licensed physician (Section 11-501.2(a) of the Illinois Vehicle Code).*
- c) A disinfectant shall be used to clean the skin where a sample is to be collected.
- d) Officers shall use DUI kits provided by the Department, if possible. If kits are not available, officers may submit two standard grey top vacuum tubes. (Pursuant to generally accepted industry standards, grey top vacuum tubes contain an anticoagulant and preservative.)
- e) The individual tubes shall be labeled with the name of the subject and the date of the withdrawal and treated as biohazard evidence.
- f) The blood samples shall be delivered as soon as practicable to a laboratory certified by the Department (see Section 1286.170).
- g) The testing laboratory shall maintain any remaining sample for a period of six months after testing.

Section 1286.330 Urine Collection for Determining the Presence of Drugs or Intoxicating Compounds Other than Alcohol

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

The following procedures shall be used to obtain a urine sample from a subject to determine the presence of drugs or intoxicating compounds other than alcohol:

- a) A sample of urine shall be collected in a manner to preserve the dignity of the individual and to ensure the integrity of the sample.
- b) A urine sample shall be collected in the presence of the arresting officer, another law enforcement officer, or an agency employee who can authenticate the sample. The officer or agency employee shall be of the same sex as the subject undergoing testing.
- c) A urine sample of approximately 60 ml should be collected.
- d) The urine sample shall be collected from the subject's first emptying of the bladder in a clean, dry container.
- e) No preservatives shall be used. The containers shall be closed.
- f) The container shall be labeled with the name of the subject and the date of the collection.
- g) The urine samples shall be delivered as soon as practicable to a laboratory certified by the Department.
- h) The testing laboratory shall maintain any remaining sample for a period of six months after testing.

Section 1286.340 Urine Collection for Determining the Concentration of Urine Alcohol

UAC testing is not a preferred method of determining the amount of alcohol in a subject's system and the feasibility of other testing procedures should be explored before determining to conduct UAC testing. The following procedures shall be used to obtain a urine sample from a subject to determine UAC:

- a) A sample of urine shall be collected in a manner to preserve the dignity of the individual and to ensure the integrity of the sample.
- b) A urine sample shall be collected in the presence of the arresting officer, another law enforcement officer, or an agency employee who can authenticate the sample. The officer or agency employee shall be of the same sex as the subject undergoing testing.
- c) The subject shall empty his or her bladder, and the urine shall be discarded or used as a sample for Section 1286.330.
- d) One-half hour later, the subject shall again be requested to empty the bladder, and the sample of about 60 ml shall be collected in a clean, dry container.
- e) No preservative shall be included in the container. The container shall be closed.
- f) The container shall be labeled with the name of the subject and the date of the collection.
- g) The urine samples shall be delivered as soon as practicable to a laboratory certified by the Department.
- h) The testing laboratory shall maintain any remaining sample for a period of six months after testing.

Section 1286.350 Operation of PBTs

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

The following procedures shall be used to obtain a breath sample to determine a subject's BrAC with an approved PBT:

- a) Each test shall be performed according to an operational procedure programmed into the instrument.
- b) A test shall consist of only one breath analysis reading, based on the PBT's internal operational calculations.
 - 1) A complete and valid breath analysis reading is denoted by at least one air blank, one subject breath test reading, and no breakdown message.
 - 2) Messages such as "NoGO", "VOID", ">400", etc., are not breakdowns or malfunctions. These messages indicate the subject's failure to adequately complete the test.
- c) A subject who submits an insufficient sample or otherwise fails to adequately complete the test or tests may be asked to submit to an additional test or tests.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Refugee/Entrant/ Repatriate Program

2) Code Citation: 89 Ill. Adm. Code 115

<u>Section Numbers:</u>	<u>Emergency Action:</u>
115.10	Amendment
115.30	Amendment
115.32	Amendment
115.34	Amendment
115.36	Amendment
115.38	Amendment
115.40	Amendment
115.50	Amendment
115.60	Amendment

4) Statutory Authority: Implementing and authorized by Sections 12-4.5, 12-4.6 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.5, 12-4.6 and 12-13] and 45 CFR 400.

5) Effective Date of Amendments: February 8, 2001

6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

7) Date filed with the Index Department: February 8, 2001

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection:

9) Reason for Emergency: The changes in the Refugee Resettlement Program are required by federal regulation. These amendments will benefit refugee clients, thereby promoting their public interest, safety, and welfare. The Department, therefore, believes that the changes in this rulemaking need to be in place sooner than the normal rulemaking process would allow.

10) A Complete Description of the Subject and Issues: Pursuant to federal regulations at 45 CFR 400, these proposed amendments revise the Refugee Resettlement Program. The major changes include:

- * for RRP cash assistance, starting with the date of application for cases approved on or after January 1, 2001;
- * for asylees, beginning the eight months of RRP eligibility from the date asylum is granted, not the date the person entered the United States;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- * budgeting for RRP cash assistance cases in the same manner budgeting is done for TANF, including allowing the 2/3 earned income disregard and quarterly reporting;
- * revising the exemptions from work registration;
- * revising the definitions of adult and child to more closely match the TANF Program. A separate RRP case will be established for a child age 18 who is not a full-time high school student and for each child age 19 or 20;
- * for RRP medical, basing initial eligibility on income on the date of application, regardless of increases that may occur during application processing; and
- * for RRP medical, disregarding employment earnings if the refugee becomes employed after the date of application.

This rulemaking also replaces Aid to Families with Dependent Children (AFDC) references with Temporary Assistance for Needy Families (TANF).

- 11) Are there any other amendments pending on this Part: No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding these amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 115

REFUGEE/ENTRANT/REPATRIATE PROGRAM

Section

115.1 Incorporation By Reference
115.10 General Provisions

EMERGENCY

115.20 The Cuban Phasedown Program (Repealed)

115.30 The Refugee Resettlement Program

EMERGENCY

115.32 Refugee Resettlement Program: Application for Assistance

EMERGENCY

115.33 Refugee Resettlement Program: Furnishing of Social Security Numbers
115.34 Refugee Resettlement Program: Work Registration/Participation

EMERGENCY

115.36 Refugee Resettlement Program: Individuals Exempt From Mandatory

EMERGENCY Work Registration/Participation Requirements

115.37 Refugee Resettlement Program: Counseling (Repealed)

115.38 Refugee Resettlement Program: Sanctions For Failure to Cooperate

EMERGENCY

115.39 Refugee Resettlement Program: Good Cause For Failure to Cooperate

115.40 The Cuban/Haitian/Entrant (Status Pending) Program

EMERGENCY

115.50 The Repatriate Program

EMERGENCY

115.60 Special Provisions Relating to Parolees

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 12-4.5, 12-4.6 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.5, 12-4.6 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency amendment at 2 Ill. Reg. 28, p. 2, effective June 1, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 48, p. 60, effective November 25, 1978; amended at 5 Ill. Reg. 2786, effective March 3, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 6 Ill. Reg. 11921, effective September 21, 1982; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16109, effective November 22, 1983; amended at 8 Ill. Reg. 6804, effective May 3, 1984; amended at 9 Ill. Reg. 2296, effective February 5, 1985; amended at 13 Ill. Reg. 3932, effective March 10, 1989; amended at 13 Ill. Reg. 13631, effective August 14, 1989; amended at 14 Ill. Reg. 773, effective January 1, 1990; amended at 14 Ill. Reg. 10438, effective June 20, 1990; amended at 16 Ill. Reg. 10291, effective June 19, 1992; amended at 18 Ill. Reg. 17671, effective November 30, 1994; amended at 20 Ill. Reg. 11484, effective August 9, 1996; recodified from the Department of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 25 Ill. Reg. 3046, effective February 8, 2001, for a maximum of 150 days.

Section 115.10 General Provisions

EMERGENCY

a) The Department administers the Refugee Resettlement Program (RRP RPP), the-Cuban/Haitian-Entrant-(Status-Pending)-Program--(CHERP) and the Repatriate Program in Illinois. These programs are fully funded by grants provided by the federal government. The administration and authorization of assistance under any of these programs is limited to a period of time established by the federal government based on available federally appropriated funds for the year. The administration and authorization of assistance under any of these programs ceases if the Department is not authorized to request and receive federal funds for the purpose of providing assistance under these programs.

b) For the Refugee Resettlement Program and the-Cuban/Haitian-Entrant-(Status-Pending)-Program, assistance shall be authorized on the basis of the Temporary assistance for Needy Families (TANF) Aid-to-Families with-Dependent-Children--(AFDC) Payment Level. The following case compositions define the level of issuance:

1) Single Adult (age--18-or--older). An adult is a person who is ineligible as a child or married and living with their spouse or a minor parent (or caretaker) of a child. Full-time college students, age 18 or over, do not qualify for cash benefits. (age 18-or--older).

2) Family cases must include at least one eligible child. The child must be under age 18 or age 18 and a full-time student in high school. Only the following adults may be included:

- A specified relative of the child and the spouse of the specified relative; or
- The legal guardian of child and the spouse of the legal guardian; or
- The unrelated caretaker of a child and the spouse of the unrelated caretaker.

c) For cash, resources Resources to be considered in all situations are those immediately available for use at the time financial assistance is needed. Available resources are to be considered when they are in existence, the value is ascertainable, they are under the control of the recipient, and can be drawn upon for maintenance. Resources are not considered for medical only cases.

d) For the Refugee Resettlement Program, assistance may not ordinarily be furnished for more than the established period of time after the date of entry. For persons granted asylum, the established period of time starts with the date asylum was granted. The-Cuban/Haitian-Entrant-(Status-Pending)-Program-is-limited-to-the-established-period-of-time

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

after-the-specific-date:

e) The following provisions are applicable to the RRP and-CHERP-programs:

- 1) To be eligible for RRP and-CHERP, a family or individual(s) must be ineligible for categorical assistance (TANF APPE, Aid to the Aged, Blind or Disabled (AABD), and related Medical Assistance No Grant (MANG) programs);

2) The individuals must avail themselves of all potential resources including application for and acceptance of Supplemental Security Income (SSI) and categorical assistance; and

3) The following provisions of the TANF APPE program (See 89 Ill. Adm. Code 112) are applicable to the RRP:

A) Client and Department rights and responsibilities. Refugees or parolees who are potentially eligible for SSI must apply for SSI.

B) Application for assistance (not eligible for \$100 compensatory payment or Presumptive Eligibility (PE) authorization). All adults refugees-over-18-years-of-age must sign the application. Cash benefits start with the date of application.

C) Citizenship;

CB) Residence. Temporary-absence-from-the-home-does-not-apply to-RRP.

DB) Client Cooperation.

EP) Furnishing of Social Security Numbers.

G) Registration-participation-requirements.

FH) Assets (Cash benefits only).

GI) Income. For RRP medical, initial eligibility is based on income on the date of application. Earnings from employment that start after the date of application do not count for RRP medical. All-non-exempt-income--including-income--from the--Voluntary--Sponsoring-Agency-(VOSA)-must-be-budgeted--the-earned-income-exemption-(990--1-1/3-does-not-apply)--Support from responsible relatives (Non-Title IV-D provisions) (42 U.S.C 651 et seq.).

IK) Personal Injury.

JB) Other financial benefits (i.e., the child care for work and training and other benefits described in 89 Ill. Adm. Code 112.308).

KM) Standards:

For a single adult case, the following payment levels apply:

- i) Group I Counties
\$212.00 monthly
- ii) Group II Counties
\$204.00 monthly
- iii) Group III Counties
\$173.00 monthly.

LN) Special authorizations.

MO) Medical Assistance standard (use the MANG(C) standard if

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Medical Assistance only is authorized; for a household of one, the Medical-Only Standard is \$283/month).

P) ~~Redetermination-of-Eligibility:~~

- 1) ~~Monthly-reporting-does-not-apply-to-RRP-~~
- 2) ~~Refugee-recipients-are-not-included-in-central~~
- 3) ~~redeterminations-~~

4) ~~the-Department-must-contact-the-VOLAG-(See-Section 115.32-for-information-to-request)-~~

NQ) Case Records.

OR) Medical Services.

PS) Funeral and Burials.

QT) Incorrect Payments.

RV) Special Projects.

SV) Crisis Assistance Programs (Family cases only) ~~(fire--the~~
~~Hardship-program--the--Special--Assistance-program--and--the~~
~~Emergency-Assistance-Program-program-described-in-89-III-Adm--Code~~
~~1167.~~

TW) Replacement of lost or stolen warrants.

- 4) In family cases, the parent (or other responsible person making application) is to be designated as the payee. In adult cases, the recipient is to be the payee.

- f) Individuals receiving assistance under these three programs are eligible to participate in the food stamp program if they meet the eligibility requirements of the Food Stamp Program.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective February 8, 2001, for a maximum of 150 days)

3046

Section 115.30 The Refugee Resettlement Program

EMERGENCY

- a) The Refugee Resettlement Program (RRP) provides for the authorization of assistance (financial and medical or medical only) for eligible needy refugees and asylees from any nation, for Cuban/Haitian Entrants, and for certain Amerasian immigrants from Vietnam (and their close family members) as determined by the Immigration and Naturalization Service.

- b) In order to be eligible to be included in a Refugee Resettlement assistance unit, an individual must be a refugee, admitted into the United States (U.S.) as a refugee or granted asylum, or be an Amerasian born in Vietnam between January 1, 1962, and January 1, 1976, (or a close family member of such an Amerasian) and admitted to the United States (U.S.) as an immigrant under the Orderly Departure Program (P.L. 96-212) on March 20, 1988, or be a Cuban/Haitian Entrant admitted on or after April 21, 1980.

- c) Assistance is limited to a period of time established by the federal government based on available federally appropriated funds for the year. The period of time begins with the first month the person

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

refugee entered the United States, except for asylees, whose period begins with the date asylum was granted. Individuals whose have lived-in-the-U-S--more-than-the-established-period-of-time-has-expired may be eligible for State Family and Children Assistance or Transitional Assistance.

- d) A child born to refugee parents may be included in the assistance unit even though the child was born in the U.S., as long as both parents are refugees.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective February 8, 2001, for a maximum of 150 days)

3046

Section 115.32 Refugee Resettlement Program: Application for Assistance

EMERGENCY

- a) As part of the regular process of determining a refugee's eligibility ~~(and--at--each--redetermination--of--eligibility)~~ for assistance, the Department shall contact the Voluntary Sponsoring Agency (e.g. U-S-Catholic Charities Conference, World Relief, etc. Refugee-Service--and the--Hebrew--Immigrant-Aid-Society) or its local affiliate in the area which sponsored the refugee and inform such Sponsor that the refugee has applied for assistance or is receiving assistance. The Department shall also request from the Voluntary Sponsoring Agency or its local affiliate the following information:

- 1) what assistance the Sponsor is providing to the refugee; and
- 2) whether the refugee or anyone in his family has without good cause refused to apply for a job, refused an offer of employment, voluntarily quit a job, or refused job skill training or English language training within the last 30 days (see Section 115.39 for definition of good cause and Section 115.34 for appropriate work and training criteria).

- b) An applicant who is not exempt from work registration/ participation requirements (as defined in Section 115.36) is not eligible for refugee assistance for 30 days after quitting a job or refusing to apply for a job or refusing to accept an appropriate offer of employment as determined by the Department and/or the VOLAG. Only the nonexempt applicant shall be ineligible for assistance.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective February 8, 2001, for a maximum of 150 days)

3046

Section 115.34 Refugee Resettlement Program: Work Registration/ Participation Requirements

EMERGENCY

- a) As a condition of eligibility for refugee cash assistance, all nonexempt adult refugees under age 60 age-16-through-59 must register for employment with the Refugee Job Placement Agency if there is one

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

in the area designated by the Refugee Job Placement Agency, or with Job Service if there is no Refugee Job Placement Agency.

- b) After registration is completed, a nonexempt individual is required to participate by:

- 1) continuing employment;
- 2) responding to an appropriate job referral (see Section 115.34 (c) of this Section below);
- 3) accepting an appropriate offer of employment (see Section 115.34 (c) of this Section below);
- 4) participating in English language training if working less than 100 hours per month if available and appropriate as determined by VOLAG; and
- 5) participating in job skill training if working less than 100 hours per month if available and appropriate as determined by VOLAG.

- c) Appropriate work training must meet the following criteria;

- 1) Work may be temporary, permanent, full time, part time or seasonal.
- 2) The wage shall meet or exceed the Federal and State minimum wage of ~~\$4.25--an-hour~~ or the sub-minimum training wage of ~~\$3.75-an-hour~~ for persons under age 18.
- 3) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation (as defined at Section 1 et seq. of the "Eight Hour Work Day Act" (Ill. Rev. Stat. 1991, ch. 48, par. 1 et seq.).
- 4) Based on an assessment of the client's educational background, employment history and training, the job or training assignment must be within the physical and mental capability of the individual to perform the task on a regular basis.
- 5) The total daily commuting time to and from the work or training site shall not exceed two hours. This does not include time required to take a child to and from a child care facility.
- 6) The work or training site to which the individual is assigned must not have been cited by the appropriate regulatory agency as having violated Federal, State, or local health and safety standards.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective February 8, 2001, for a maximum of 150 days)

Section 115.36 Refugee Resettlement Program: Individuals Exempt From Mandatory Work Registration/Participation Requirements
EMERGENCY

An individual is exempt from work registration/participation requirements when that individual is:

- a) a child in the case; ~~age-16-or-17-in-full-time--elementary--grades--9-through-12-or-equivalent-vocational/technical-school-attendance~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- b) ~~age-18-and-expected-to-complete-an-educational-program-before-reaching age-19.~~
~~be) a~~ A person who is ill, incapacitated, or age 60 or 65-and over;
~~cd) a~~ A person whose presence in the home is required because of illness or incapacity of another member of the household;
~~de) the parent or other caretaker (as defined at 89 Ill. Adm. Code 101) of a child under the age of one 6 who is caring for the child; or~~
~~e) employed full-time (i.e., 30 hours or more per week).~~

AGENCY NOTE: Full time college students age 18 or over are not eligible for cash assistance. (Individuals attending job skill training or English language classes expected to last less than one year are not considered full time college students).

AGENCY NOTE: Inability to speak English does not make the refugee exempt from work registration/participation requirements.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective February 8, 2001, for a maximum of 150 days)

3046

Section 115.38 Refugee Resettlement Program: Sanctions For Failure to Cooperate With Work Requirements
EMERGENCY

- a) A nonexempt recipient who, without good cause, quits an appropriate job, refuses to apply for an appropriate job or refuses to accept an appropriate offer of employment will have his/her case cancelled or will be deleted from the assistance unit, as appropriate. The person and is ineligible for Refugee cash assistance until they register for work and request restored benefits ~~for-a-sanction-period-of-three--(3) payment--months for the first failure to cooperate, and For for the second failure to cooperate, the person is ineligible for three six (36) payment months or until he or she cooperates, whichever is longer.~~ For the third failure to cooperate, the person is ineligible for the remainder of the RRP period ~~for--subsequent-failures-to cooperate.~~ An employable recipient working less than 100 hours per month must participate in English language training or skill training if it is available and appropriate as determined by VOLAG, or be sanctioned. ~~for--three--(3)--payment--months-for-the-first-failure-to cooperate-and-for-six--(6)--payment--months-for--subsequent--failures--to cooperate.~~ The sanction will begin on the first day of the next fiscal month.

- b) Following the sanction period, assistance cannot be restored until the client applies for assistance and registers with the Refugee Job Placement Agency or Job Service. The client can register with the Refugee Job Placement Agency or with Job Service up to 30 days before ~~on-the-day-following~~ the last day of the sanction period.

- c) The Refugee Job Placement Agency and the Voluntary Sponsoring Agency have primary responsibility for determining when a refugee has quit an appropriate job, refused to apply for an appropriate job or refused

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

job skill training or English language training. However, if the local office becomes aware that a client has quit a job, refused to apply for a job, refused to accept a job or refused training, the local office must make the decision regarding appropriateness of job or training and make the decision to sanction if reconciliation is not successful.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 3046, effective February 8, 2001, for a maximum of 150 days)

Section 115.40 The Cuban/Haitian/Entrant (Status Pending) Program (Repealed)

EMERGENCY

- a) The Cuban/Haitian-Entrant-(Status-Pending)-Program-(CHPEP) provides-for the authorization-of-assistance-(financial-and-medical)--for--eligible needy-Cuban-and-Haitian-entrants-(Status-Pending)-including-applicants for--asylum--and--parolees--issued-documentation-on-or-after-April-21-1980.
- b) Assistance-is-limited-to-a-period-of-time-established-by--the--federal government--based-on--available--federally-appropriated-funds-for-the year--The-period-of-time-begins-with-the-date-the-entrant-is--granted parole--or--is--otherwise--issued-documentation-by-the-immigration-and Naturalization--Service--Cuban/Haitian-Entrants--or--applicants--for asylum-who-have-been-admitted-or-paroled-into-the-United-States--more than--the--established-period-of-time-may-be-eligible-for-State-Family and-Children-Assistance-or-Transitional-Assistance.
- c) A-child-born-to-Cuban-or-Haitian-entrant-parents-may-be-included--in the--assistance--unit--even--though-the-child-was-born-in-the-U-S--as long-as-both-parents-are-Cuban-or-Haitian-entrants.

(Source: Repealed by emergency rulemaking at 25 Ill. Reg. 3046, effective February 8, 2001, for a maximum of 150 days)

Section 115.50 The Repatriate Program

EMERGENCY

- a) The Repatriate Program provides for the authorization of assistance (financial and medical) for eligible needy U.S. citizens and their dependents who have been returned to the U.S. from a foreign country by the U.S. Department of State because of destitution, illness, war, threat of war, invasion or other crisis.
- b) To be eligible for assistance under the Repatriate Program, an individual or family must have been referred to the Department by U.S. Department of Health and Human Services. The local office is responsible for determination of financial eligibility.
- c) Assistance shall be authorized on the basis of the TANF APBE Payment level. The following case compositions define the level of issuance:
- 1) single adult (age 18 or older);

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 2) families of adults;
- 3) adult or adults with child or children; or
- 4) child or children only.
- d) Resources to be considered in all situations are those immediately available for use at the time financial assistance is needed. Available resources are to be considered when they are in existence, the value is ascertainable, they are under the control of the recipient and can be drawn upon for maintenance.
- e) Assistance may not ordinarily be furnished for more than 90 days. If an individual is handicapped in attaining self-support for such reasons as age, disability, or lack of vocational preparation, authorization of a maximum of nine months additional assistance may be requested from the Department of Health and Human Services. The person requesting assistance is expected to repay the amount of the assistance when financially able to do so. Case records and case recordings shall be maintained.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 3046, effective February 8, 2001, for a maximum of 150 days)

Section 115.60 Special Provisions Relating to Parolees

EMERGENCY

- a) Where appropriate, federal governmental officials provide that parolees (aliens not otherwise admissible who have been paroled into the U.S. by the discretion of the U.S. government) may be found eligible for all benefits available to refugees in the RRP. Aliens paroled into the U.S. are considered living in the U.S. under color of law.

- b) As of the effective date of this rule, the following federally funded programs have been so specifically designated by appropriate federal officials:

- 1) TANF Cash and Medical APBE-MAG-and-MANG
- 2) Food Stamps
- 3) AABD MAG and MANG
- 4) General Assistance
- 5) Cuban/Haitian-Entrant-Program

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 3046, effective February 8, 2001, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 6, 2001 through February 13, 2001 and have been scheduled for review by the Committee at its March 20, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/21/01	Department of Children and Family Services, Permanency Planning (89 Ill Adm Code 315)	11/27/00 24 Ill Reg 17401	3/20/01
3/21/01	Department of Children and Family Services, Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill Adm Code 309)	11/27/00 24 Ill Reg 17394	3/20/01
3/21/01	Department of Children and Family Services, Placement and Visitation Services (89 Ill Adm Code 301)	11/27/00 24 Ill Reg 17419	3/20/01
3/21/01	Department of Natural Resources, Sport Fishing Regulations for the Waters of Illinois (17 Ill Adm Code 810)	12/15/00 24 Ill Reg 17877	3/20/01
3/24/01	Department of Revenue, Income Tax (86 Ill Adm Code 100)	12/1/00 24 Ill Reg 17496	3/20/01
3/24/01	Department of Public Health, Illinois Home Health Agency Code (77 Ill Adm Code 245)	8/4/00 24 Ill Reg 11565	3/20/01
3/24/01	Secretary of State, Illinois State Library, Information Services Division (23 Ill Adm Code 3010)	12/22/00 24 Ill Reg 18519	3/20/01
3/25/01	Department of Revenue, Retailers' Occupation Tax (86 Ill Adm Code 130)	12/22/00 24 Ill Reg 18505	3/20/01

